

FIFTY-EIGHTH DAY

Tuesday, April 27, 2010

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, convened at 9:06 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Faye P. Hanohano, after which the Roll was called showing all Members present.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 271 through 274) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 271, informing the House that on April 24, 2010, the following bill was signed into law:

S.B. No. 2611, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS." (ACT 055)

Gov. Msg. No. 272, informing the House that on April 24, 2010, the following bill was signed into law:

H.B. No. 2561, SD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE." (ACT 056)

Gov. Msg. No. 273, informing the House that on April 24, 2010, the following bill was signed into law:

S.B. No. 2163, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF NURSING." (ACT 057)

Gov. Msg. No. 274, dated April 25, 2010, informing the House that on April 26, 2010, pursuant to Section 16 of Article III of the State Constitution, the following bill will become law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 2803 SD1 HD1

On April 26, 2010, I intend to allow Senate Bill No. 2803, entitled "A Bill for an Act Relating to The Regents Candidate Advisory Council" to become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish a seven-member student advisory group to recruit, evaluate, and recommend to the Regents Candidate Advisory Council who are the "most qualified" candidates to fill the Board of Regents student position. The bill further precludes certain persons from serving on the Regents Candidate Advisory Council including persons on the All Campus Faculty Senate and the Executive Council of the University Student Caucus.

I continue to believe that the creation of the Regents Candidate Advisory Council established a narrowly prescribed process, not answerable to the public, with the intent to limit the choices a Governor has in appointing Regents. This bill is an attempt by a group of dissatisfied students to address the narrow interests of the Regent Advisory Council by setting up another mechanism to involve more students in the determination of who should be a student regent.

However, in trying to address the shortcomings of the Advisory Council law, this bill further blurs the lines of responsibility and transparency for holding a Governor accountable for the performance of the Regent Board. Rather than disbanding the Advisory Council or broadening the number of

candidate names it must submit to a sitting Governor, the bill sets up yet another group that both shadows and second-guesses the work of the current Council. There is nothing in this bill that will lead to a wider choice of candidates for a Governor's consideration. Nor is there anything in this bill that allows the public to better understand and participate in the selection of those individuals who are responsible for setting the policies that guide our State university.

As I stated in my 2007 veto message, the current process exempts the selection of regents from public scrutiny, narrowly defines the number of candidate names that a Governor can consider, and fails to ensure that the Board is composed of members who reflect the best interests of the entire university and the State. This bill makes a small but ineffective effort to address some of these fundamental flaws.

For the foregoing reasons, I intend to allow Senate Bill No. 2803 to become law as Act 58, effective April 26, 2010, without my signature.

Sincerely,
/s/ Linda Lingle
LINDA LINGLE"

The following message from the Governor (Gov. Msg. No. 275) was announced by the Clerk and received for possible future consideration:

Gov. Msg. No. 275, transmitting her statement of objections to S.B. No. 2840, SD 2, HD 1, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2840

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2840, entitled "A Bill for an Act Relating to Public Procurement."

The purpose of this bill is to require contractors awarded public works construction contracts to employ a workforce consisting of at least eighty percent Hawaii residents, and provides sanctions for noncompliance including temporary suspension of contract work, payment withholding, disqualification from the project, recovery of contract payments, and disbarment or suspension.

I support the creation of local jobs for local residents. However, this measure does not create jobs, because it does not incentivize any new economic activity. Unfortunately, the bill will likely discourage some job creation activities by increasing the costs of public works construction in the State of Hawaii.

It establishes an ill-defined, ambiguous, and complex compliance structure for contractors and state and county agencies. For example, the bill fails to indicate whether a contractor must maintain the ratio of Hawaii and non-Hawaii resident workers every day the project is underway, every month, or over the entire duration of the project. Furthermore, the bill fails to specify if the quota applies only to jobsite staff or all contractor staff including administrative and managerial personnel.

It will be difficult for a contractor to determine at the outset, prior to the commencement of the contract, the total number of workers and the total number of worker hours required for the duration of the contract. The contractor's flexibility to maintain a workforce that is responsive to changing needs of the project likely would be impaired if the contractor were required to maintain a quota within its workforce at all times during the contract. The eighty percent residency requirement would exacerbate

the contractor's need to continually juggle its workforce, adding and deleting individuals, so as not to violate the quota requirement at any time during the contract. Further, it would also be difficult for contractors to determine which of their workers are state residents based on the criteria of the bill, as the contractor would have to glean the workers' intent to establish residency in Hawaii.

Additionally, the eighty percent requirement applies to the contractor's subcontracts that are priced at \$50,000 or more. Under this measure, the contractor would be responsible not only to maintain the composition its own workforce, but also the workforces of its subcontractors, over whom the contractor has limited authority.

State and county agencies would be similarly burdened to enforce the requirements of this measure, and will have to find the resources and staff to do so. In sum, the monitoring, enforcement and compliance that this bill requires are difficult, burdensome, and expensive for both contractors and public government agencies.

This measure's requirements are also likely to provide additional grounds for contractor protests, delaying projects at the expense of taxpayers and impeding the ability of the State and counties to carry out public works initiatives.

Finally, the courts are divided as to the validity of state statutes that require the employment of state residents in the construction of public works. The legislature may not have created a record with the necessary requirements to overcome a constitutional challenge, thereby subjecting the State to protracted and costly litigation.

For the foregoing reason, I am returning Senate Bill No. 2840 without my approval.

Respectfully,
/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

INTRODUCTIONS

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

Representative M. Oshiro introduced Mr. Henry Curtis and Ms. Kat Brady of Life of the Land.

Representative Evans introduced friends of the Humane Society: Ms. Inga Gibson, Mrs. Vicky Cayetano and Ms. Ginny Tiu.

Representative Finnegan on behalf of Representative Wakai and herself, introduced 4th grade students from Aliamanu Elementary School and their chaperones, Ms. Krista Holloway, Ms. Minako Fields, Ms. Sydette Cadiz; and teacher, Ms. Gabrielle Chung.

Representative Finnegan also introduced her friends, Ms. Noella Nance, and her daughter, Ms. Rachel Nance.

Representative Har introduced former Representative Alex Santiago, and Ms. Debbie Shimizu, from the National Association of Social Workers.

ORDER OF THE DAY

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.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 151-10 and H.B. No. 2200, HD 1, SD 2, CD 1:

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2200, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Lee.

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

"Mr. Speaker, thank you. I rise in favor of this bill. First of all let me begin by thanking my colleague Chair Kim, my counterpart, and her Ways and Means staff. I extend to the Ways and Means staff and Chair Kim my gratitude for all the hard work and dedication. Her insistence and interest in having a more efficient and effective government, getting the most 'bang for the buck' and for targeting waste and mismanagement is truly appreciated. I have indeed enjoyed working with her over these past two years.

"I also want to thank the members of the Finance Committee Mr. Speaker, with a special acknowledgement for Minority Leader Lynn Finnegan, who joined us on the Committee just this year. It was a hard road to climb, a high learning curve, but she's done quite well in the short time with us. Mr. Speaker, I truly appreciate her support, her input and guidance as we developed this budget. Indeed Mr. Speaker, our informal decisions and discussions revealed so much that we share in common, although we may disagree with each other's remedy and each other's approach.

"I also want to thank Vice Chair Lee. Representative Lee has been with me for four years now and truly she has been the best co-pilot any pilot could have. Without her support my job would certainly be much more difficult. Her officer's-like command of the hearings pace and little tolerance for indulgent questions truly belied her quiet and gentle nurse-like persona. Mr. Speaker, one moment, Mother Theresa - the next, Sister Mary Elephant.

"I thank the Finance Committee staff for all the long hours, the research, and the support not only on the budget, but on all the Committee hearings, Mr. Speaker. The work was daunting, but without their legwork and the logistical support, we wouldn't be here today. Thank you one and all. But special public thanks to Nandana, Mikey, Puna, Stacey, Eric, Randy, Tracy and Jo; and the Finance Committee Analysis, Research Staff for being my sounding board, devil's advocates, whip crackers, angry phone call interceptors, and policy wonks. I was the front man, but you folks made the band.

"Mr. Speaker, a special acknowledgement this morning to Research Chief, Randall Hiyoto who is not with us today in this building, but I suspect he's watching us right now. Yep. Policy, right? Thank you. Randall, everyone here misses you, is thinking about you, and is right behind you supporting you on your journey back. Come back soon.

"Finally Mr. Speaker, I want to thank the public, those in the Gallery here in the House Chamber, and those watching us on television. You are the ones who elect us to make these difficult decisions, and you are the ones we are ultimately accountable to. Our system of government relies upon your input and your participation. Democracy is a contact sport, and it demands and requires your participation. We've been hearing from all segments of our communities. Keep it up folks. You are making a difference.

"Mr. Speaker, a year ago I stood before this Body and said, 'I do not believe our work on this budget ends here. To the contrary, it begins here.' In fact a year ago we were provided with a small reprieve when the American Recovery and Reinvestment Act gave Hawaii more than \$900 million. The money has been well spent and has helped stave off greater unemployment, larger cuts in healthcare, human services and education. Unfortunately, no new bailout money is here to help us again this year."

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

Representative M. Oshiro continued, stating:

"Thank you, Representative Rhoads. We are on our way, but we have to do it on our own with what we have.

"For the past year Mr. Speaker, I have used the analogy of the five stages of grief as an analogy to describe what we've been going through as a State as we live our lives in the worst global economic crisis in over 80 years, 'The Great Recession.' We're still reeling from the unexpected death of our national economic wellbeing. The economic rules of the game have shifted tremendously, sectors of commerce and business forever changed, and our Nation's global positioning more pronounced and acute. We are living in a time that futurist Dave Korten described as, 'The Great Turning.' I never imagined how apropos that description may be, so let me put this into context.

"The first stage is denial. If you really look at the budget we adopted last year, it was a denial budget. Federal stimulus funds allowed us to avoid the more painful decisions. It allowed us to buy some time and shield ourselves from the harsh realities and deny having to make the extremely difficult decisions.

"The second stage: anger. Losing one's job, investment, or opportunity because of what had occurred on Wall Street makes many angry. Hawaii's dependence on tourism jobs and construction jobs were hit hard and today it vibrates throughout the community. Highest unemployment in over 30 years. Highest foreclosure rates in decades. Record bankruptcies are all signs listed in the headlines of our daily papers. Government worker furloughs and drastic cuts to service. Parents and teachers are angry. Workers and customers are angry. For-profits and non-profit corporations are angry.

"The third stage is bargaining, Mr. Speaker. This is the stage where we seek to better our lot by making tradeoffs. Mr. Speaker, I believe if you look around, many in our community are still working through this one. We have not found common solutions or common ground to solve our fiscal problems. Rather nearly the extreme opposite has occurred. Our communities are divided. Everyone seeks to, 'protect their own' and far too many have been tossed out of the canoe that we so desperately seek to stabilize and steer through the uncharted and ever shifting peaks and valleys, pursuing the clear path and safe harbor for all our people. Indeed Mr. Speaker, not all are paddling. We're not all in sync yet, and too few are pulling for far too many.

"Over the past few months all too often I've heard hundreds of people say that they understand the hard choices that have to be made, and they sympathize and empathize with what we are doing. Thirty seconds later Mr. Speaker, they're in the middle of telling us why they should be excluded from the budget cuts, or tax deferrals, or should be allowed a tax credit, or incentive, or even given more money. In many ways this has been the Session of bargaining.

"As you move forward there will be consequences to the budget cuts that have been made. Everyone claims to know the effects of furloughs on the Department of Education and our kids in school. Less known and publicized are the effects of furlough on the Departments of Agriculture, Health, Human Services. What about Labor, Defense, Accounting and General Services, the Department of Land and Natural Resources, and Taxation and others? I have concerns about the possibilities, and I hope that I am wrong. A burden lies on all of us for some of the choices that have to be made in this budget.

"Stages four and five of the five steps in stages of grief, are depression and acceptance. And as awful as it may sound Mr. Speaker, I sincerely hope that this will be a quick interim of facing depression that will lead to a Session of acceptance next year. That we will finally come to the realization that the old ways have passed, some things will never be the same, and that we are living in indeed a new age. But we are the ones living it now."

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

Representative M. Oshiro continued, stating:

"Thank you. And we are responsible for what we do for our people now. Mr. Speaker, I truly believe that we can move through the stages of denial, anger, bargaining, depression, and find acceptance for where we are in this moment of history and time, and understand that we'll have to face the inescapable hard choices and decisions, we will be better posed to make the necessary hard choices confronting us next year.

"Mr. Speaker, let me make this point: acceptance doesn't necessarily mean giving in or giving up. Rather, acceptance should entail understanding of the situation and what needs to be done to fix it. During this interim of depression and acceptance we need to seek an understanding for what we're facing because only then can they accept it. Blind acceptance, or acceptance without understanding will lead to resentment. The goal for all of us is to avoid resentment upon each of us in our communities.

"Mr. Speaker, prior to the start of this Session I spent two days at the Fiscal Chairs' Seminar, and one message rang loud and clear. This is it. Despite a growing concession that the national recession, the principal cause of state fiscal problems ended, state finances will not recover in the near term. History shows that state budgets continue to struggle long after a recession ends.

"Mr. Speaker, your Finance Committee took these words to heart and throughout the Session strove to answer four basic questions. Number one, how far can we cut government programs and services? Number two, what programs and services are we willing to live without? Number three, are we willing to pay more for the programs and services we want? And number four, what do you want Hawaii to look like when the recession ends?

"Mr. Speaker, I support this budget not because I like the cuts that we made, but because of what cuts we did not make, and the programs and services we were able to save for now. Working with all the Chairs, but especially the Chairs of Health, Agriculture, Human Services, Education, and Higher Education who have been the voice of the voiceless, the guardians of the common good, this budget fights for restoration of several programs and personnel cuts by the Governor. This budget reflects our core values, core beliefs, and puts rare and precious dollars where they are most needed and necessary. Because of their insistence and leadership, wise counsel, and yes, even friendly criticism, this budget is what it is.

"Mr. Speaker, the decisions made this year were tough ones. The kind of decisions that keep you awake at night. Indeed my colleagues, please know that my dour demeanor is not a reflection of my deep joy and pleasure and great satisfaction in this great and noble endeavor as your Finance Chair, but only the effects of maybe too little sleep, too little surf, and much serious passion for our people and our home.

"Mr. Speaker, these are decisions we made in 2008 and 2009, and the 'low-hanging fruit' have been picked clean. So I leave this question to all of you: Members, what do you want Hawaii to look like as we emerge from this recession? And this will be my opinion, my personal one, but I find solace in our decisions because our critical needs are addressed and vulnerable populations will be saved, children at risk will be safe, and our *kupuna* and disabled will be protected and respected.

"*Hawaii nei* will be protected from destructive invasive species, our lands preserved, and our food safety ensured, our farmers allowed to grow and sell and ship their produce to foreign shores. At the same time we planted the seeds for energy and food independence and security. Even in these tough times we're able to find creative long-term methods and solutions to put us on a path to a more sustainable future. This in turn will drive our new economy, clean our air and water, and promote good green jobs and know-how for our youngsters and the future world they'll inspire and lead."

Representative Keith-Agaran rose to yield his time, and the Chair "so ordered."

Representative M. Oshiro continued, stating:

"Thank you, Mr. Speaker. And thank you, Representative Agaran. Mr. Speaker, I'm proud of the work done by this Legislature in considering, debating and wrestling with options to battle and balance the budget. We have done so honestly, openly, transparently and respectfully. Mr. Speaker, you of all have continued to show a great foresight and courage in exposing a reluctant Body to the inevitable choices we soon must face in addressing government services in the era of declining revenues. Thank you Mr. Speaker, for bringing us to those bridges we soon have to cross, for your patience in delaying the crossing, and for leading the way for a better and safer cross for all of us.

"Despite our challenges I still believe that we can come together as a community. We have to. There is no one else but us. We are the ones we have been waiting for. So as we go out through our communities in the coming months we must resist the urge to promise everything to everyone. Certainly there will be offers of a *quid pro quo*, but be upfront and honest in fact. Honesty is a tool we need to help our neighbors move through the five stages of grief and help them on the path to acceptance. Ben Franklin's advice from over 200 years ago rings true today. Honesty is the best policy.

"Just like last year Mr. Speaker, our work does not end here, but it begins here anew. There are solutions that have yet to be discovered and there are better days ahead. We are Hawaii. We are all part of a great *'ohana*, and an even greater legacy. We are all interconnected by a few degrees of separation. We will put everybody back into the canoe, hold until they are firm, give leeway to the discouraged, restart our cadence, 'Hut, Ho,' and move Hawaii forward to the future we deserve. We had a temporary setback, but we can be stronger as a community, more caring as a people, more unified in purpose than we were just a few months ago. Symptoms of the recovery are there, locally and nationally, and I remain, as ever, 'cautimistic.' I have no doubt that we will emerge from all of this, stronger and wiser. This too shall pass. Thank you, Mr. Speaker. Thank you."

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

"Mr. Speaker, I rise in support of this measure with gratitude, but with some reservations. Mr. Speaker, the conundrum that we have as a state is that we have 2007 revenues, with 2009 expenses, therefore the shortfall. How we've gone about that is in an interesting way and some of the things that I want to comment on.

"I really appreciate what the Chair of Finance has said; that we've gone from varying stages of acceptance to denial. Procedurally, I would start with denial that this bill should be first, Mr. Speaker. We're passing this bill, and later on in this session are the bills that are going to fund it. There's probably \$100 to \$200 million that have not actually passed, but yet we're arguing the budget first. Now assuming that they go through, it's fine, but it seems a bit odd having the budget as the first point of argumentation.

"Having said that, I want to thank the Chair for his discourse with the people of Hawaii, but I would disagree with the strategy that the Chair of Finance has taken. There was in his stages of grievance, grieving also strategies of fear, strategies of keeping the community twisting in the wind by threats that not only would departments be decimated, but small businesses and job killers would be upon them, and the dreaded one percent GET tax. Mr. Speaker, that was held over the people of Hawaii for the last three to six months. All along knowing, and I want to thank the Chair of Finance for making the Minority do its own business by looking at the numbers early on, knowing that those taxes did not need to be raised.

"Mr. Speaker, we are grateful that you forced us to do a budget because when we did the numbers, we knew early on that those threats, those fear mongering things that the Budget Committee Chair was promoting were not justified. So Mr. Speaker, a lot of people can now say, 'Well, gee. You didn't do this,' but some of the things that you did looks like you're very generous. I think it was a very clever strategy, but it wasn't open, and it wasn't honest, Mr. Speaker.

"I think that's why we have to be more transparent when we do budgeting. We have to show people where the funds are and what they're doing. Again, I'm grateful to the Chair of Finance because we have a budget that's not only online, it's interactive, and it shows what assumptions can be made or not made according to what ones' preferences are for which areas need to be increased or decreased. Mr. Speaker, that's the kind of transparency that I think we need and not just a budget that balances for one year, but one that goes entirely for six years.

"Having said that Mr. Speaker, I'm grateful that all of the jobs killers I spoke of so extensively on this Floor did not come to pass. I'm grateful that the GET did not come to pass, but I am very regretful that at the eve of having an agreement, a Space Act signed by the State of Hawaii and NASA, that for two years in a row we have sunk the spaceship of the Office of Aerospace. We've shot them out of the air again. For two years they have not been funded. Mr. Speaker, that's going to be an embarrassment and I would encourage the Chair of Finance, I would encourage WAM and all the people that have anything to do in the departments with money, to make sure that funds are made available for the Office of Aerospace.

"Another regret is some of the unnecessary increases and taxes that the people of Hawaii will have to pay. And with that are some of the things that I think later on when we look at the numbers, we'll know that we really didn't have to do that. We didn't have to increase the tax burden as the cost of living in Hawaii continues to soar. The cost of doing business continues to soar. And it's not me speaking. It's the latest data that we are the second highest in the world for conducting business. Those are the people who hire our people to do the job of employment.

"So in conclusion Mr. Speaker, we can make war through stages of denial and anger and acceptance by being more transparent. I think the Finance Chair has the psychology right, except the methodology is slightly askew. We need to be more open, more transparent, and I would encourage, regardless of what our numbers are, to work with the Minority on these things. The same that is going on at the national level."

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

Representative Ward continued, stating:

"That there is an economic contribution, there is an economic insight that even though our numbers are small, some of the insights of which fortunately were able to be put through some of the major newspapers and some of the blogs pointed to the website. That we can be more transparent. We can be more open. We can share with the people of Hawaii what otherwise they were for the last six months, fearful of what this Body would do. Now everybody's grateful because it's not going to come to pass, and I would use the same quote as the Chair of Finance that Ben Franklin said, 'Honesty is the best policy.' But when it comes to budgeting, Mr. Speaker, transparency is the best policy. Openness is the best policy. And collaboration is the best policy. Thank you."

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

"Thank you very much, Mr. Speaker. I am Representative Tsuji with a 'T.' Thank you. I stand and rise in strong support, Mr. Speaker. I support this final budget in its amended form. First of all I'd like to say that I'd like to thank you, and I also would like to convey an apology.

"I thank the House Finance Committee Chair, the members, and the staff for toiling countless hours in arriving with this final bill. Thank you very much. I would like to apologize also personally because I've gone down to the Finance Chair, his Committee members, his staff, his aides, volunteers, and I know for a fact Mr. Chair, that sometimes I went beyond acceptable protocol. I consistently badgered, I consistently pleaded to help refine the Department of Agriculture's budget. Not only for budget's sake, not only for the Department of Agriculture, but also for all of us here in Hawaii and our quality of life that we all so deserve. Taking a phrase from the Committee Report, "reprioritize State spending to maintain the most essential services." I thank the Committee for recognizing agriculture as one of those essential services.

"With that in mind, the Committee on Agriculture recognizes the restoration in part of the agricultural portion of the budget, after our Governor sliced 44% of the general fund budget. Needless to say, this was a staggering amount. Not only staggering, but to me personally, highly incomprehensible. At a time when Hawaii is placing its effort on less dependence on imported foods, striving to export more to the mainland and foreign countries, Mr. Speaker, foreign destinations, we are consistently and constantly battling the ever increasing threat of invasive species. They jeopardize our economy, our industry, and our way of life.

"Yes, last September the Governor restored 22 of 50 inspectors that were laid off statewide. These inspectors were and are necessary for protecting our ports of entry. The Conference Committee has also restored a number of other important personnel. This restoration meets a very heavy obligation to assure that we have the best front line of defense against invasive species. Believe you me, Mr. Speaker, these are invasive species of the worst kind. They are mass destructors. Thank you, very much."

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

"Yes thank you very much, Mr. Speaker and Members. I'm Souki with an 'S.' The alphabet one. I know some people think otherwise. Mr. Speaker, I want to speak for the budget with some reservations.

"First of all, I want to speak on the good parts of the budget. The Chairman, and you, and the members have done an excellent job. Not only this year, but the past year in balancing the budget. Faced with huge deficits last year and this year, you were able to overcome that and balance the budget in a very humane way. For this I heartily, and we all, thank you very much for the great job that you have done.

"My concern is and the reservation I have is in some of the projects that we're responsible for, and maybe we didn't care enough for it or didn't have enough of an oversight. One of that is ATDC, which I had the honor to be the Chair of the Conference Committee. We had a difficult time. The Senate had other ideas how to handle the Aloha Tower and we wanted to preserve it. The ATDC, Aloha Tower, is very important with the harbor programs and the harbor improvements that we now have.

"In fact Members, Act 200 passed in 2008 provided for a partnership between ATDC and DOT for the major harbor improvements that we are to have. It mandates, and I use the word, mandates, that ATDC partner with the DOT harbors and shall have the jurisdiction to implement the projects for the harbor improvements for Honolulu, Maui, Kauai, Big Island, Hana.

"However, there are some in the other Chamber who obviously did not read this and attempted to scuttle ATDC. Not being able to scuttle ATDC because the House, through your efforts also Mr. Speaker, supported me in not buying the proposal of the Senate to dismantle ATDC, and of the Chairman of course.

"However, in the closing hours of the Session, a proviso was included on page 341, section 163-1, it says, 'Provided that notwithstanding any laws to the contrary, no funds authorized by this or other appropriation acts shall be expended or encumbered by or for Aloha Tower Development Corporation; and provided further that the Governor is authorized to transfer funds held or encumbered by the Aloha Tower Development Corporation to appropriate state agencies for the disbursement of its obligations.'

"Now of course Aloha Tower is not to spend it at this moment, however they have no budget. They have no money. And this year, we just killed it. The question is, how are we going ahead with the harbor improvements? Yes we can. There's staff who will probably pick it up, but it will be delayed a year, two years. And then there's the question of law. It says in Act 200 that ATDC shall have the jurisdiction. But this action here in the late hours eliminated that.

"So Mr. Speaker, I'm very disturbed that this happened. And it happened in the late hours. Maybe it passed through your hands and through the

Chairman's hands, but certainly something like this should be rectified at some point in time, otherwise the harbor program will be jeopardized."

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

Representative Souki continued, stating:

"Thank you very much, Representative Magaoay. Thank you. Of course the other concern I have is that some very key positions in the airports have been eliminated when we're going through the airport modernization program also. And that's another story and hopefully sometime in the future we can put those positions back in, knowing the stress you were in.

"So Members and Mr. Speaker, and to the Chairman, I do not fault you. I know that you were under complete pressure, and the Speaker and those members of the Committee, but I think for these things here, we should look at some way of how we can prevent this from happening. That can scuttle a program because somebody doesn't want the program to continue. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in support with reservations. Mr. Speaker, before I go into the actual budget, I would like to give my thanks to a bunch of people that I think we worked collaboratively with. I would like to thank the Chair of Finance and just clarify that the work that we did in the Finance Committee I think was very valuable. I have not worked with any other Finance Chair, but from my understanding and my personal experiences with working with the Chair, I really do appreciate all his hard work and all of his dedication to balancing this budget. I do want to thank the Finance Committee. It's very tough work being on the Finance Committee. Being up until sometimes 4:30 in the morning, and I'm sure for the staff as well as the Finance Committee being up later than that once the business is over for the day.

"But I just wanted to say that one day at 2:00 in the morning my head started to bob and my eyes were closed. A majority of the Finance Committee that was there in the meeting tried to wake me up and jot me notes, and tug at me and basically saying, 'Lynn, you've got to stay up. It doesn't look good if you have your eyes shut.' And it's so very true and that was way past my bedtime anyway. No matter what, if we are disagreeing on points, I think we still can agree that we're all trying to do the right thing and we all have good intentions moving into working with this budget.

"Mr. Speaker, I do want to thank the Finance staff and HMIR staff and highlight two people, Boyd Akase, as well as Beth Fukumoto from Representative Ward's office. I also wanted to thank my Caucus because with the information that we would learn in Finance Committee in bringing these numbers to the table, we worked collaboratively with each other to come up with our six-year plan and a balanced budget. Something that we thought was very important that all six of us would come together and come up with a plan that would represent how the Republicans would handle the difficulties of balancing a two-year budget, as well as a six-year plan.

"Mr. Speaker, I did say that our intentions are good and I think the goals are good. A sustainable future. Defining core government services. Recovering from this economic downfall. Mr. Speaker, I think one of the biggest differences between the ideas of the Majority and the ideas of the Minority is that the Minority really felt the need to live within our means. To not increase taxes because we felt that when the economy slows down and our tax revenues are less, that that represents what's happening out there in our economy in general, and what happens in family budgets, as well as business budgets. And as much as we would have wanted to express that by keeping programs and spending at higher levels, we felt that the best way that we could recover from this economic downfall is to live within our means.

"Mr. Speaker, some of the things in general, like the special fund development and special fund raids, we were able in our six-year financial

plan, as well as our balanced budget, to not have to raid those funds. We felt it was important because when you're setting up these funds it's meant for a specific reason. And we were there 'til 4:30 in the morning hearing all of the reasons on why these particular special funds were needed. There were projects that were being done and projects in the future that were going to happen. So when we passed out these special funds raid bill, it went from \$90 million, down to I think \$5 million. And the actual budget, the bill that actually passed which helps this budget balance is back up to I think \$45 million.

"Mr. Speaker, a lot of the decisions that we make in this budget we will not be able to truly know how this will affect the State, no matter how much we have testimony and no matter how much work ..."

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

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. I'm not going to talk too much more Mr. Speaker, but what I will say is the private sector needs to recover and I think it is our responsibility to live within our means. As a clarifying point, from what I know of the Finance Committee and the Finance Chair, I believe that this process was pretty transparent. The things that I would like to say where I think we could improve on transparency would be the public, as well as the Minority being able to see the Majority's financial plan for six years. I think that would be really helpful in understanding what the differences are, and what was included and what was not included. This is a document that I think is really important for decision making and in the future if we could consider making that public, the six-year financial plan of the Legislature and/or the House, that would be very important for us.

"You know Mr. Speaker, because of the more overarching general beliefs that I have on how we need to balance the budget, I was actually going to vote no on the budget. But after really hunkering down and saying that we made suggestions along the way, and many of them were taken through this process. Many of them were tough. And as a gesture of the ability to come to the table and make some of those tough decisions, even though I disagree with the overarching values and beliefs in working and living within our means, that I will be voting yes with reservations.

"To wrap up, Mr. Speaker, when we were talking about the House Draft of this bill, there were many accusations on what the Governor wanted to do. Cut this. Cut that. Blame the Governor on this. Blame the Governor on that. When in actuality much of her budget is now in this budget. So I think at the very least we should acknowledge that some of the tough decisions that the Governor had made, we are also agreeing with her on many of those decisions that she is being blamed for.

"So Mr. Speaker, I want to once again thank you and thank this Body for all the work. This wasn't an easy year. It was a very challenging year. When times are good, we're able to maybe do more with programs, but when times are tough and times are bad I think we should definitely look to more living within our means. Thank you."

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

"Mr. Speaker, I rise in support. Mr. Speaker, this budget is the result of many months of research, testimony, discussion and negotiation by members of the Finance and WAM Committees, their staffs, and the Chairs. The Committee Report, which I read twice, reflects a very sober assessment of the economic realities we face not only this year, but in the years to come, and makes suggestions for changes in policy and direction. No one could have foreseen the extent of the present economic crisis, but the report minces no words when describing the red flags that had appeared in the past like the burgeoning cost of Medicaid, an undisciplined system which seems to shout, 'cost is no object,' or the exorbitant cost of overtime in the prison system.

"This is a realistic, down to earth budget, which offers no excuses and the report rightly criticizes the Executive's approach of quick fix, one-time solutions, and putting off until tomorrow what should be done today. I'm very happy to have been a part of the process which avoided raising both

the GET and taking the TAT from the counties, which seemed inevitable to some.

"I'm also happy to see that tax or fee increases comprise only 5% of the budget. That's 5%, a very small amount. 57% of the budget comprises general fund budget cuts and lapses, and in many ways, sad to see.

"I'm proud that the budget sets definite priorities and makes it clear that although the recession is easing, our State will be dealing with fiscal shortfalls well into the next few years. But it also offers ideas, possible solutions, and preserves positions for better times in the future. I'd like to thank the brilliant and cheerful Finance staff, always cheerful, very brilliant, and all the members of the Finance Committee who stayed late, mostly came on time, asked probing questions, and gave up weekends to increase their own knowledge while going line by line through the budget draft.

"We were fortunate to be led by a Chair who has been described by none other than Lowell Kalapa as someone who really understands the budget and does his homework, working 24/7. We were constantly amazed by his innumerable flip charts, graphs and drawings, which helped us to understand the vagaries of the budget, and by the ability of the Chair to find just the right page in his large collection of notebooks punctuated by post-it notes in order to make a point with a testifier when we sat transfixed. Above all, transparency and openness were at the top of the Chair's agenda at all times, and the Committee was always able to share information, ask questions, whenever they wanted to. I think that's probably one of the most important things about being part of the Finance Committee now.

"So here we are for the final vote. It hasn't been without some blood, sweat and tears. A lot of tears, sometimes. But it is a responsible, truthful document of which we can all be proud, and I urge the Member's support. Mr. Speaker, I'd like to add some additional written remarks in the Journal. Thank you."

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

"Mr. Speaker, I rise in support of HB 2200, HD1, SD1, CD1. This budget is the result of many months of research, testimony, discussion and negotiation by members of the Finance and WAM Committees, their staffs and the Chairs.

"The Committee Report reflects a very sober assessment of the economic realities we face not only this year, but in the years to come and makes suggestions for changes in policy and direction. No one could have foreseen the extent of the present economic crisis, but the report minces no words when describing the red flags that had appeared in the past like the burgeoning cost of Medicaid—an undisciplined system which seems to shout "cost is no object" or the exorbitant costs of overtime in our prison system.

"This is a realistic, down to earth budget, which offers no excuses, and rightly criticizes the Executive's approach of quick fix, one-time solutions, and putting off until tomorrow what should be done today.

"I am very happy to have been a part of the process, which avoided raising the GET and taking the TAT from the Counties, which seemed inevitable to some. I am proud that the budget sets definite priorities and makes it clear that although the recession is easing, our state will be dealing with fiscal shortfalls well into the next few years. Ideas and solutions are offered and positions are preserved for better times.

"I would like to thank the brilliant and cheerful Finance staff, and all the members of the Finance Committee who stayed late, mostly came on time, asked probing questions and gave up weekends to increase their own knowledge while going line by line through the draft.

"We were fortunate to be led by a Chair who has been described by none other than Lowell Kalapa as someone who really understands the budget and does his homework. We were constantly amazed by the innumerable charts, graphs and drawings which helped us to understand the vagaries of the budget and, by the ability of the Chair to find just the right page in his

large collection of notebooks in order to make a point with a testifier, while we sat transfixed.

"So now we are here for the final vote. It hasn't been without some blood, sweat and tears. But it is a responsible, truthful document of which we can all be proud. I urge the Members' support."

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

"Thank you very much, Mr. Speaker. I rise in support. I'd like to speak on the portion pertaining to capital improvements. At the outset of the 2010 Regular Session, the Governor proposed a modest capital improvement program in her supplemental budget request. Her budget called for a reduction of \$30.4 million in FY10, and an increase of \$164.935 million in FY11.

"Your Committee on Conference recommended an ambitious capital improvement program for this biennium to stimulate job creation and revitalize our economy. Your Committee on Conference increased the total number of appropriations for capital improvement projects above the Governor's request by nearly \$453 million or roughly 270%. The total outlay was funded by increasing the general obligation issuance by \$150 million, and lapsing over \$170 million in previously approved appropriations, and obtaining over \$32 million in savings in bond refinancing.

"Your Committee on Conference scoured all previously approved appropriations to identify projects that have not proceeded for whatever reason. It is important to note that the Committee believes that these funds previously appropriated were for worthwhile purposes. The fact that these appropriations were lapsed should not be construed as a statement by the Legislature that they were not worthwhile; rather, because of the dire economic situation that we now face and the desperate need to proceed with construction and stimulate our lagging economy, your Committee took the extraordinary measure in shifting \$170 million in previously appropriated appropriations in new projects in the hope that construction will begin immediately. All the \$452 million proposed in new projects in FY11 were with the Governor's supplemental request.

"Your Committee on Conference added more than \$147 million to the University of Hawaii. Major projects included \$48 million for design, construction, equipment and the development of the University of Hawaii, West Oahu. \$28 million for construction, equipment and a new Hawaiian language building at the University of Hawaii at Hilo. \$20 million for plan, design, construction and equipment for project Renovate to Innovate, a new initiative by the University to consolidate renovation of existing laboratory facilities. \$35 million for capital renewal and deferred maintenance. And \$18.625 million for repair and maintenance for health, safety and code requirements.

"The Governor's supplemental request contained zero dollars for the Department of Education facilities. Your Committee on Conference asserts that the upkeep and maintenance of lower education facilities are vital to the educational needs of our *keiki*. Accordingly, your Committee approved \$92.8 million for new projects for the Department of Education. Major projects included \$30 million in lump sum for repair and maintenance of existing projects. \$15 million in lump sum for electrical upgrades, and \$4.35 million for lump sum gender equity projects including improvements required by the court for a softball field for Baldwin High School.

"Lastly, so there is no misunderstanding Mr. Speaker and colleagues, there were some technical amendments made to the budget on certain capital improvement projects previously approved that were not lapsed on June 30, 2010, while various stakeholders and government agencies work to expend these funds. These projects include the acquisition of land previously held by the Galbraith Estate; construction of a gymnasium civil defense shelter at Ka'u Pahala Elementary School on the Big Island; and the construction of a new science building at the University of Hawaii, Maui College, on Maui.

"Let me stress that these projects do not include any provisions of new funds. Since they are from a technical standpoint, the original appropriation is lapsed, then reverted back to the bond fund. The re-appropriation of the same amount has no, I repeat, no impact on the financial plan. Mr. Speaker, with that I would like to insert the rest of my comments into the Journal. Thank you."

Representative Yamashita's written remarks are as follows:

"Mr. Speaker, I rise in support of House Bill No. 2200, House Draft 1, Senate Draft 2, Conference Draft 1, Relating to the State Budget. I would like to speak on the portion of this bill pertaining to capital improvements.

"At the outset of the 2010 Regular Session, the Governor proposed a modest Capital Improvement Program in her supplemental budget request.

	FY10	FY11
Act 162, SLH 2009	\$2,567,588,000	\$972,303,000
Governor's Supplemental Budget (HB2200)	\$2,537,188,000	\$1,137,238,000
Adjustments	-\$30,400,000	\$164,935,000

"The Governor's budget request called for a reduction of \$30,400,000 for FY10, and an increase of \$164,935,000 for FY11.

"Your Committee on Conference recommends an ambitious Capital Improvement Program for this fiscal biennium to stimulate job creation and revitalize our economy.

	FY10	FY11
Governor's Supplemental Budget (HB2200)	\$2,537,188,000	\$1,137,238,000
HB2200, CD1	\$2,531,645,000	\$1,690,134,000
Adjustments	-\$5,543,000	\$452,896,000

"Your Committee on Conference increased the total appropriation for Capital Improvement Projects above the amount appropriated for fiscal year '11 in Act 162 by nearly \$453 million, or roughly 270% above the Governor's suggested increase.

"Our total outlay was funded by:

- (1) Increasing the General Obligation Bond issuance by \$150,000,000;
- (2) Lapsing over \$170 million in previously approved appropriations; and
- (3) Obtaining over \$32 million in savings from bond refinancing.

"Your Committee on Conference scoured all previously approved appropriations to identify projects that have not proceeded for whatever reason. It is important to note that your Committee believes that all of the funds previously appropriated were for worthwhile purposes. The fact that these appropriations were lapsed should not be construed as a statement by the Legislature that they were not worthwhile. Rather, because of the dire economic situation we now face, and the desperate need to proceed with construction to stimulate our lagging economy, your Committee took the extraordinary measure of shifting over \$170 million in previous appropriations to new projects in the hope that construction will begin immediately.

"Of the \$452 million proposed in new projects for FY11, over the Governor's supplemental request, your Committee on Conference added more than \$147 million for new projects at the University of Hawaii. Major projects include:

- (1) \$48 million for design, construction, and equipment for the development of University of Hawaii, West Oahu;
- (2) \$28 million for construction, and equipment for a new Hawaiian Language Building at the University of Hawaii at Hilo;

- (3) \$20 million for plans, design, construction, and equipment for Project Renovate to Innovate, a new initiative by UH to consolidate the renovation of existing laboratory facilities;
- (4) \$35 million for capital renewal and deferred maintenance; and
- (5) \$18.625 million for repair and maintenance for health, safety and code requirements.

"The Governor's supplemental request contained ZERO new dollars for DOE facilities. Your Committee on Conference asserts that the upkeep and maintenance of our lower educational facilities are vital to the educational needs of our *keiki*. Accordingly, your Committee on Conference approved \$92.8 million for new projects in the Department of Education. Major projects include:

- (1) \$30 million in lump sum for the repair and maintenance of existing facilities;
- (2) \$15 million in lump sum for major electrical upgrades; and
- (3) \$4.35 million in lump sum for gender equity projects, including the improvements required by court order for the softball field for Baldwin High School, Maui.

"Lastly, so that there are no misunderstandings by my colleagues, there were also technical amendments made to the budget that ensures that certain capital improvement projects previously approved would not lapse on June 30, 2010, while the various stakeholders and government agencies work to expend these funds. These projects include:

- (1) The acquisition of lands previously held by the Galbraith Estate, Oahu;
- (2) The construction of a gymnasium/civil defense shelter at Ka'u High and Pahala Elementary School, Hawaii; and
- (3) The construction of a new science building at the University of Hawaii, Maui College on Maui.

"Let me stress that these projects do not include the provision of any new funds. Since, from a technical standpoint, the original appropriation is lapsed and reverted back to the bond fund, the reappropriation of the same amount has no, I repeat, NO, direct impact to the financial plan."

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

"Thank you very much Mr. Speaker, in support. First may I have the words of the previous speaker entered in the Journal as if they were my own, minus the Baldwin High School part.

"Just a few words from an outsider's perspective of the budget, if you will Mr. Speaker. I'm in support. There are things in this budget that I and many of us could look at to say, 'Well I'm not happy about this,' or, 'We wish it could have gone another way.' But I believe that with any bill you could say that and when you step back and look at the totality of how the budget has arrived and the decisions that were made, that I'm proud to stand up and give my support to this piece of legislation today.

"First, on behalf of my community and many others, I'd like to thank the Finance Chair, yourself and the members of the Finance Committee for supporting a 150 year tradition of the Lahainaluna boarding program. Your support in continuing the funding for this year will allow the community to work together during the off-session to evolve, grow and make this program better than before, while reducing the capital cost to the State. Thank you very much, again.

"I'd also like to note that this budget does many things, but one thing it does not do is it does not take away the counties' share of the TAT to balance it thereby pounding our citizens even harder who rely on these services every day. The counties are carrying a lot of the water right now,

both in the needs of our citizens, as well as many state programs. I thank you and the Finance Committee for moving forward without having to rely on that.

"Mr. Speaker, this is a good budget because it basically is based 57% on cuts, living within our means. Only 5% is based upon new taxes. Given the fact that the Finance Chair had very little to work with, with an overwhelming oppressive economic situation, I applaud him for doing the fiscal homework and for basically cutting and reprioritizing and reutilizing things that have lapsed in order to arrive us at a balanced budget.

"Mr. Speaker this budget, I believe, solves the dilemma of today, but I also stand up with a warning for tomorrow. Members, we're facing next year, an ARRA cliff of \$900 million. This year we're picking up \$275 million by delaying tax returns until we pass July. We're not going to have those luxuries next year, Mr. Speaker. In fact in the outlying years it's clear to see that our expenditures will definitely outstrip our revenue. So Mr. Speaker, while the future is going to be challenging, I applaud the Finance Chair and the Finance Committee for their hard work and due diligence in helping us to right the ship for this year and to use the tools both federally and locally that are available. I'm confident that this will help set the stage, that we can look to these outlying years and be able to tackle them in a pragmatic situation that will not require us to destroy jobs, or to basically ruin our economy in the sake of trying to get a balanced budget for the State Constitution. Again, in strong support. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise on this budget in favor, with some reservations. I know that I myself do not serve on Finance and there's a reason for that. I do have a small one. So therefore, I have all due respect and homage to the people who do spend very late hours with the Finance Committee, and the complexity of what the budget does entail. With that, my respect goes out and I know that we are, as it has been said numerous times, people are trying to do what they can. And it's not easy.

"But I guess I just couldn't stay and sit in my seat without giving an alternative perspective that some may have of the process. Granted, not from the inner workings of the Finance Committee but from the outside of how some people feel because there were some things like audits. There were some things that are cuts that we can't explain because priorities, people's value systems are different and you start to wonder about, is this because I'm on this side? Or I'm on that side?"

"I'm just going to read a little bit, just food for thought. Because this is one of my favorite books and I think that's it apropos for food for thought.

"Man is the only real enemy," right? Maybe you could switch out business for that.

"Remove Man from the scene, and the root cause of hunger and overwork will be abolished forever. Man is the only creature that consumes without producing. He doesn't give milk, he doesn't lay eggs, he's too weak to pull the plow, and he can't run fast enough to catch rabbits. Yet he is the lord of all the animals. He sets them to work, he gives back to them the bare minimum that will prevent them from starving, and the rest he keeps for himself.

"Why then do we continue in this miserable condition? Because nearly the whole of the produce of our labor is stolen from us by human beings. Remember comrades, your resolution must never falter. No argument must lead you astray. Never listen when they tell you that Man and the animal's have a common interest, that the prosperity of the one is the prosperity of the others. It is all lies. Man serves the interest of no creature except himself. And among us animals let there be perfect unity, perfect comradeship in the struggle. All men are enemies. All animals are comrades.

"The vote was taken at once, and it was agreed by an overwhelming majority that rats were comrades. But there were only four dissentients, the three dogs and the cat, who was afterwards discovered to have voted on both sides."

The Chair addressed Representative Ching, stating:

"Representative Ching, can you confine your remarks to the budget that is before us in making the correlation?"

Representative Ching continued, stating:

"The correlation is that this is from *Animal Farm* and it's a treatise on how government is run and how a group of animals who asked the humans from the farm on which they lived, end up running the farm only to have it degenerate into tyranny.

"My fear is that business should not ever be felt to not have a place at the table and from an outsider's perspective, albeit. I just really felt this Session that there was not the understanding that prosperity, when business thrives, it provides jobs, and that all prosper together. So when we say honesty is best policy, I couldn't help but be honest. And my feeling was that some animals are created more equal than others."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I just have a few short things that I did want to also add. I wanted to basically also point out and thank my partner from the Minority side, the Representative from Hawaii Kai. Through both of us working together we were able to really help each other in this process and I just really wanted to make sure that I thanked him in public. As well as I wanted to give just a short rebuttal on two things.

"One is the CIP issue and talking about the difference of what the Governor did and what this budget does. I just want to remember that even from the words that came out of the people from DOE themselves, talking about how they were unable to handle the amount of CIP projects that they were given in the past, and that we be mindful about that in just saying that Governor didn't give, and we gave. That we should be thinking about that as well.

"Also the delicate issue of the Lahainaluna boarding system and school; when it comes down to it the reason why I believe that the Board of Education had made that suggestion and others are actually thinking about that suggestion of potentially not considering that a priority in Department of Education is because that works to about approximately \$5,000 more per pupil that they receive for the boarding school when most of these children, if not all of these students, do have home schools that they can go to. I understand the tradition, but I really do believe if the Representative is saying that they are going to be looking at other solutions on how to have this school exist, but not give them special treatment over and above other students across the State. I believe that we owe that to our education system to be able to transition out of public support that will be over and above other students who are equal to them.

"Mr. Speaker, can I also adopt the words of the Chair of Transportation on the ATDC? Thank you."

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

"Thank you, Mr. Speaker. I rise in support of the budget bill. Thank you, Mr. Speaker. Dealing with a \$1.2 billion shortfall, your Finance Committee working with the Ways and Means Committee came up with a \$1.4 billion solution. I think that's quite historic. They did this without raising the GET by 1%. They did this without taking the hotel accommodations taxes from our counties. This is very historic. In addition, they were able to protect essential health, human services and education programs and positions.

"Mr. Speaker, I'm very concerned that throughout the Session the Department of Human Services administration wanted to close every single office. I've repeated myself a number of times on this issue, and I'm glad to see that the Finance Chair, Ways and Means Chair, and both Senate and House leadership agreed, that's not the prudent thing to do. Let's not hit the panic button. We can prudently navigate through this most difficult time. They did this by defending those most essential programs and positions. Child Protective Services, Adult Protective Services, care

homes, programs for the aged, blind and disabled, care for our domestic violence victims, employment programs for those that are in need, immigrant services. They provided essential services to over 300,000 of Hawaii's most needy residents. They did this prudently.

"So I support this budget bill and I appreciate all the work that both the Senate and House leadership did, as well our money Committee Chairs. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm standing in support. First of all I would like to thank the Finance Chair and Senate WAM Chair for their dedication, as well as their staff. Also I would like to publicly acknowledge my Vice-Chair and the members of the Health Committee including the Minority Leader.

"Mr. Speaker, standing up in support regarding the portion specifically addressing health and human services. Mr. Speaker, it's been a tough year. The Department of Health, as well as the Department of Human Services did take their share, and sometimes even more than their share of some of the budget cuts. Mr. Speaker, the two Departments did lose valuable personnel, as well as positions.

"However Mr. Speaker, during the situation of fiscal crisis, it never left our minds, as well as with the commitment of the Finance Chair, to protect and ensure that programs like the Hawaii Health Systems Corporation and programs dealing with Healthy Start, Kupuna Care, as well as the protection of our firefighters for all they do, Mr. Speaker. This budget, during this fiscal time, shows a true commitment to not only hearing the people of Hawaii, but also preparing for the future.

"One final note Mr. Speaker, which I think needs to be acknowledged, is the fact that with this budget, the way it is, we not only got valuable capital improvement projects throughout the State of Hawaii as noted by the CIP Chair, which I think he noted only projects on Maui, there are other parts of the State other than Maui. But Mr. Speaker, this budget also allowed important fiscal opportunities to continue in bill form which included the Disproportionate Share for hospitals, as well as the use of the Rainy Day Fund for valuable health and human service programs. So thank you, again."

Representative Ward rose to respond, stating:

"Mr. Speaker, just a couple of additional comments, please. First to thank the Representative from Maui who reminded us that there's a big hole in the budget coming when ARRA funds, the federal funds are not going to be coming in the next few years. That's a very sobering remark and a reminder that a balanced budget of one year does not make a six-year budget balanced. Mr. Speaker, what we've got here is a one-year balanced budget. By the Constitution, the Governor has to have a six-year balanced budget, and I encourage the Finance Chair to push the balanced budget, keeping in mind what the Representative from Maui said, that when that *puka* comes in, we've got to be able to fill it. That is a very insightful thing.

"The second thing I'd like to do is thank the other member from Maui who reminds us, until we look at the budget, we're not sure that this budget is what it is. It's got as many pages as the Health Care Act and until you read it, you don't know what pet projects and what, as the Representative from Maui mentioned, got cut, displaced, disseminated, or decimated, and are there. So I encourage everyone to read the budget.

"And lastly Mr. Speaker, the budget debate is not over, because we're going to put it on the website, juxtaposed to the Minority balanced budget so the people of Hawaii can see what the budget is. What decisions were made. You know some of these estimates, well it's all cuts and it's not tax increases. I think the data may bear that out differently, but it's going to be different color-coded. Here's the House Minority Budget. Here's the State Budget. Here's where we overlap. Here's where we disagree. So the people of Hawaii can see openly and transparently what it is that we've done here today. Thank you."

At this time, the Chair stated:

"Members, we've had a lot of discussion on the budget this morning. If any of you would like to submit written comments for or against the Budget that is before you, you may do so at this point in time."

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 for House Bill 2200, Relating to the State Budget. The operating budget has been balanced with spending cuts, vacancy eliminations, and tax increases. I strongly believe that the budget could have been balanced with bolder spending cuts instead of tax burdens on taxpayers. But because this budget bill included all the good things we worked on this session, I will reserve my no vote for the individual bills that carry the tax increases.

"On a positive note, the CIP budget will bring much needed funding for various projects including our airports, highways, harbors, and most importantly, our schools.

"The \$48 million appropriation for campus development of the University of Hawaii – West Oahu will lead to further educational opportunities for the people of Hawaii, and reduce traffic for my community. The construction of the campus will also bring much needed jobs for those that are unemployed.

"For the reasons above, I rise in support with reservations for House Bill 2200."

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 rise in support of H.B. 2200, Relating to the Budget. As we are at the half-way point of the 2010 Legislative Session the budget comes to the forefront of this Body. This legislature must find the delicate balance of balancing our budget yet keeping jobs and sustaining funding for vital community services and programs. I believe it is important to grow our small businesses, for it is these small business that are the back bone of our economy. We must find ways to help our small businesses because their success expands outwards to the rest of our economy.

"Fiscal inefficiency has been the chief reason for our State's budgetary woes. It is simple economics that you can't spend more than you bring in. As I pour over statistics and research looking at past budgets and this proposed budget, I find areas where we can be more fiscally sound. The Director of the Department of Human Services, Lillian Koller, has found several ways to make government more efficient. One proposal Mrs. Koller has come up with is to reform the processing of applications and renewals for public assistance programs, including welfare, Medicaid and nutrition benefits. Mrs. Koller doesn't want to cut services to the needy. Rather, she wants to provide a more efficient service. This model of efficiency has been used quite successfully by many states, most notably being Florida.

"We must be more fiscally efficient as a Body. The great people of Hawaii have put their faith in us and we owe them prudence, diligence, and bipartisanship, especially during these economic times. It is of the utmost importance that we embrace fiscal integrity for the security and prosperity of our great citizens. 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, to clarify some comments made by our esteemed colleague from Maui, there is a budget proviso in HB 2200 CD1 that reads as follows:

"SECTION 163.1. Provided that notwithstanding any laws to the contrary, no funds authorized by this or any prior appropriations act shall be expended or encumbered by or for the aloha tower development corporation; and provided further that the governor is authorized to transfer funds held or encumbered by the aloha tower development corporation to appropriate state agencies for the disbursement of its obligations."

"As the budget Conference Committee wrapped up its negotiations, less certain was the final disposition of SB 2942 – the bill that would restructure the responsibilities of the Aloha Tower Development Corporation (Corporation).

Knowing that there probably wouldn't be any budget for the Corporation in fiscal year 2011, it was important to ensure that any:

1. Contractual obligations of the Corporation be honored in any subsequent reorganization; and
2. Existing statutes and/or policies and procedures would allow the Harbors Modernization Group projects to move ahead without any delay or obstacle.

"In fact, it was my belief that all relevant parties, both public and private interests had and did have ample time to ensure that important programs such as the Harbors Modernization Program continue its work undisturbed.

"Prior to making final decisions on the budget, I met with Harbors Division Deputy Director, Mr. Michael Formby, on Friday, April 16, 2010. Joining us via cell phone conference-call was Mr. Brennon Morioka, Director, Department of Transportation. Mr. Formby assured me that he has met with staff and informed them of the status of SB 2942 and emphasized the following:

1. The importance of working with Aloha Tower Development Corporation on the transition of Harbors Modernization Group contracts via assignments to the Department of Transportation by June 30th;
2. The need to maintain work schedules with the existing contracts and consultants;
3. The need to evaluate existing Harbors Modernization Group staff for possible incorporation into the Department of Transportation – Capital Improvement Program – project funded positions, for continuity of service;
4. The ability to hire these project funded positions without the need for an additional appropriation;
5. The need to fill, as soon as possible, the lead Harbors Modernization Program project leader position with an engineer, as well as other key project management positions;
6. The need to revisit the Harbors Modernization Program expenditure plan given 2010 legislative appropriations and existing project schedules;
7. The need to assign the Aloha Tower Marketplace contract to the Department of Transportation, the landowner, and work with the marketplace, maritime museum and surrounding tenants on a viable economic plan until a legislative decision is made on waterfront development, preferably through the Hawaii Community Development Authority; and
8. The desire to convene a voluntary advisory Harbors Modernization Group board as a subset of Hawaii Harbors User Groups to work with Department of Transportation on project implementation

"It was my impression from that meeting that the DOT did not want to restart any of the projects and that it would use the available CIP project funded positions for engineers, and not necessarily all of the current Corporation staff. It was also understood that should the Corporation positions be transferred to the Hawaii Community Development Association (HCDA) that it may be proper to also transfer the jurisdiction and oversight of the Aloha Tower Marketplace and its special fund to HCDA. I later came to an understanding that placement of the Aloha Tower Development Corporation staff may be an option given the present vacancies and available source of funding at HCDA.

"With significant construction projects scheduled to begin between FY 2012 and FY 2015, after an initial bond issuance in FY 2011, any transition of and between the Corporation and the Department of Transportation Harbors Division and HCDA is critical to the ultimate success of the projects. It was my belief that the proviso, brought forward by Senator Kim and drafted by the Senate Ways and Means Staff, was included in the budget to ensure that this can occur without any delay or obstacle. My understanding of the expenditure restrictions was the concern of any remaining funds, whether general or special would be improperly transferred and/or used for purposes unrelated to the Corporation.

"Finally, while I cannot comment upon the concerns raised by the Speaker Emeritus regarding the recent opinions of the Attorney General and the Director of the Department of Budget and Finance, it is useful to know and appreciate the fact that within the Supplemental Budget bill another provision reads as follows:

"SECTION 9. MISCELLANEOUS. If any portion of this Act of its application to any person, entity, or circumstance is held to be invalid for any reason, then the legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible."

"As such, it is my opinion that should proviso 163.1 be read to prohibit any expenditures of prior appropriations by and for the Corporation, and such prohibition may result in the delay of the Harbors Modernization Program, the assignment of the Aloha Tower Marketplace contracts, and possible transfer of certain Corporation staff to the Hawaii Community Development Corporation, the above referenced Section 9, should take precedence and deem such restriction null and void, and the remaining portion be expended to fulfill the objective as expressed herein of such appropriation to the extent possible.

"For this and for other reasons expressed herein, I support passage of this measure."

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

"Mr. Speaker, in strong support with written comments."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of H.B. 2200, H.D. 1, S.D. 2, C.D. 1, Capital Improvement Project item number 101.01.

"I want to thank my colleagues, especially the Finance and Capital Improvement Projects Chairs, for including this appropriation of \$48,000,000 for the University of Hawaii-West Oahu in the budget. This appropriation will be used for the design, construction, and equipment for the development of the campus in Kapolei. The project will include ground and site improvements and construction of infrastructure and new facilities.

"This state-of-the-art campus will enhance the development of Kapolei as Oahu's "Second City." In order to meet the needs of the fastest growing area on Oahu and afford the students the same opportunities found at the Manoa campus, continued operations from the temporary facilities located on the Leeward Community College campus for the past 30-plus years is no longer practical.

"Mr. Speaker, this funding reflects the commitment of the Legislature to make possible the long-standing promise of providing the young adults of West Oahu equal access to four-year college degree programs, removing barriers of long commutes or renting housing near the Manoa campus. Moreover, the new campus will encourage business development in the surrounding area, creating a "University Village" that will stimulate the economy by bringing job opportunities to our community.

"It is for these reasons that I stand in support of H.B. 2200, H.D. 1, S.D. 2, C.D.1 and will continue to be a strong advocate for future funding of the University of Hawaii-West Oahu. Thank you, Mr. Speaker."

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

Representative Belatti's written remarks are as follows:

"I rise with reservations on HB 2200, CD 1. There is perhaps no other bill more important as a statement of our priorities and values than this year's supplemental budget bill. I applaud the efforts of the legislators and staff members from both the House and the Senate who have labored hours over this bill to preserve much needed services and programs that are at the very heart of government's mission to provide for the public safety, education, health and human services, and economic and environmental prosperity of our island community.

"My reservations with this bill, however, as with the House Draft that crossed over, are premised on revenue generating bills that I am either in opposition to, have failed to pass, or for which I now have grave reservations. For example, I am concerned that we are not certain of the unintended consequences of revenue generation bills, like Senate Bill 2401 that may be the subject of litigation that locks up any revenues that can be used to meet the State's fiscal obligations. I am also concerned that further decreases in revenues may provide the rationale for further cuts to government that would hurt core governmental services without the input of the Legislative Branch. For these reasons, I vote with reservations for HB 2200."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2200, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Final Reading by a vote of 49 ayes, with Representatives Cabanilla and Tokioka being excused.

At 10:23 o'clock a.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2200, HD 1, SD 2, CD 1

At this time, the Chair stated:

"Before calling a recess, have the Members of this House submitted their respective proposed floor amendments for discussion purposes with the respective Caucuses? Have all of the floor amendments been submitted to the Clerk? If they have, this is your last chance."

At 10:23 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:40 o'clock a.m.

At this time, the Chair recognized the Clerk who announced:

"I have been informed by a representative of the President of the Senate that the Conference Committee Report for House Bill No. 2200, HD 1, SD 2, CD 1, was adopted, and said House Bill No. 2200, HD 1, SD 2, CD 1, Relating to the State Budget, passed Final Reading in the Senate at 10:35 a.m. on this day.

"In addition, I have been informed by the Assistant Clerk of the House that at 10:38 a.m. on this day, House Bill No. 2200, HD 1, SD 2, CD 1, has been duly transmitted by the Legislature to the Governor, pursuant to Article VII, Section 9 of the Hawaii State Constitution."

ORDINARY CALENDAR

UNFINISHED BUSINESS

At this time, the Chair stated:

"At this time, Members of the House, may we turn to page 21 of our Order of the Day, and we will be taking Conference Committee Report No. 147-10, House Bill No. 2486, HD 2, SD 2, CD 1, out of order."

Conf. Com. Rep. No. 147-10 and H.B. No. 2486, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2486, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

At this time, Representative Souki offered Floor Amendment No. 15, amending H.B. No. 2486, HD 2, SD 2, CD 1, as follows:

"SECTION 1. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 1 to read as follows:

"SECTION 1. Act 51, Session Laws of Hawaii 2004, stated, "Ultimately all education reform must be driven by the needs of students. Students are the primary clients served by the public education system and they must be served well by providing them with access to the tools they need to succeed, a nurturing environment conducive to learning, and supplementary opportunities for growth that facilitate their development.

Accordingly, especially in light of the instructional hours lost due to furloughs, the purpose of this Act is to require the phase-in of implementation of a certain number of student instructional hours at all public schools, except charter schools, as follows:

- (1) Part II requires the department of education to maximize the amount of student instructional hours provided to students under relevant collective bargaining agreements in effect during the 2010-2011 school year;
- (2) Part III requires the establishment of a certain number of student instructional hours per school year for elementary and secondary school grades, for the 2011-2013 school years, and for the 2013-2015 school years;
- (3) Part IV requires the department of education to, with the board of education and Office of the Governor, and in consultation with representatives of the affected collective bargaining units, submit to the legislature, no later than twenty days prior to the convening of the 2012 regular session, a plan to provide students with a higher number of student instructional hours per school year for elementary and secondary school grades, for future school years; and
- (4) Part V requires the department of education to provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes, and also requires the department to consider pick-up and drop-off times that optimize its transportation services while minimizing costs to the State, if implementation of such student instructional hours results in varying schedules for the transportation of students."

SECTION 2. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 5 to read as follows:

"SECTION 5. Section 302A-406, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department ~~may~~ shall provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes. The department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the department shall consider the school district; the school attendance area in which a school child normally resides; the distance the school child lives from the school; the availability of public carriers or other means of transportation; the frequency, regularity, and availability of public transportation; and the grade level, physical handicap, or special learning disability of a school child, and it may also consider such conditions and circumstances unique or peculiar to a county or area. If the implementation of student instructional hours pursuant to section 302A- results in varying schedules for the transportation of students, the department shall consider pick-up and drop-off times that optimize the department's transportation services while minimizing costs to the State."

SECTION 3. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 7 to read as follows:

"SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored."

Representative Souki moved that Floor Amendment No. 15 be adopted, seconded by Representative McKelvey.

Representative Souki rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker and Members, I rise to speak in favor of the floor amendment on House Bill 2486, CD 1. What can we as legislators guarantee our children, our public school children? Truly, try as we might, despite our best efforts we cannot guarantee them a great, or even an adequate education. We have no control over what goes on in the schools, which have depressingly suffered in the last eight years.

"Some will say that our public schools are in worse academic shape now than ever. And although we try through the repair and maintenance and capital improvements budget process, to provide money to build and maintain schools, we are not in charge of building or maintenance either. Try as we might, we can't even guarantee the *keiki* that the buildings are straight and properly maintained.

"In this bill, HB 2486 as amended, we are demonstrating for the first time the role of the Legislature that children have a right to go to school for a minimum number of days per year, and that they all have the right to a certain specific number of hours and minutes of classroom instruction each day. Perhaps Mr. Speaker, we can guarantee one more thing that our children can at least get to school in the morning and home at night again.

"That is why I proposed this floor amendment today to also give our children the right to get to school on the school bus. The school bus is the most expeditious, most environmentally friendly, and the safest way to transport school children yet devised. It's better than walking or riding a bicycle, and safer. It's far cheaper than private vehicle transportation, and safer. If we're going to secure for our *keiki* the right to attend school for a legislated number of days and have the right to a minimum of hours and minutes of instruction each day, then we ought to also secure for them the right to get to school in the first place.

"What happens in a classroom when they get to school is not up to us. How schools are maintained is not up to us. But can we not agree to guarantee our children in this difficult time when all others seem incapable of agreement that at least this Legislature would say to our *keiki* and especially our neighbor island children, you can go to school, we guarantee it.

"I urge my colleagues from every island and every school jurisdiction to join with me today in telling everyone in our State that if the other authorities, the unions, and any other entity that has responsibility for education cannot see the way for a better day for our children, that by this legislation we can. As the duly elected Representatives of the people, we

will take the responsibility to whatever degree the Constitution allows. Thank you, Mr. Speaker and Members."

Representative Herkes rose to speak in support of the proposed floor amendment, stating:

"Thank you Mr. Speaker, in very strong support of the proposed floor amendment. Mr. Speaker, I have schools that are 30 miles apart. Kindergarten schools. Naalehu to Hookena is 30 miles apart. There's no guarantee that there's going to be any school bussing at all, and we're very concerned about that.

"The other thing is, to just get on a bus is a mile and a half. I don't want my kids walking a mile and a half in the fog. That's just not acceptable. In strong support."

Representative McKelvey rose to speak in support of the proposed floor amendment, stating:

"Thank you very much, Mr. Speaker. In strong support. May I have the words of the Speaker from Wailuku entered into the record as if they were my own, and just a few comments if I may.

"Mr. Speaker, I'm very passionate about this floor amendment because of what the two previous speakers have said. We can do a lot of things for instructional hours, instructional days, but if the kids can't get to school to begin with, then what are all these efforts for, Mr. Speaker?"

"Mr. Speaker, this is a knife that cuts hardest on the lowest of the socio-economic ladder, Mr. Speaker. It is truly the disadvantaged of the rural and Neighbor Island communities that will suffer the most by not having transportation made available.

"I know there have been concerns saying that this is a mandate and that every child will take the bus. But the reality is, most parents who are taking their kids to school or carpooling will continue to do so. It is for those kids that cannot get there that rely on this bus service. That is what we're trying to say.

"What we're trying to say to them is that when you leave in the morning, when you go to work, when your child waits for the bus, they will get safely to school. And in many areas like my good friend and colleague from East Maui, getting to school by walking is a dangerous endeavor in and of itself. There are no safe routes to schools in these areas, Mr. Speaker.

"So Mr. Speaker, I stand in strong support because I believe that if we're going to give education, access to education for all, then we at least need to provide the way for them to get there in a safe manner. Thank you, very much."

Representative Nakashima rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In support. Mr. Speaker, as I often remind my good friend, the Representative from Manoa, my House District is the size of his island.

"Mr. Speaker, in my district I have three high schools. As a teacher at Honoka'a High School, the students were on the bus for about an hour and a half before they got to my classroom every morning, and then an hour half on the way home. That's three hours round trip for many of my students. While this is not an ideal situation, at least they got to school. Mr. Speaker, I'd like to request permission to enter remarks."

Representative Nakashima's written remarks are as follows:

"In strong support of Floor Amendment No. 15. Mr. Speaker, as I often remind my good friend, the Representative from Manoa, my House District is the size of his Island.

"Mr. Speaker, in my District, I have only three high schools. As a teacher at Honoka'a High School, my students were on the bus for one and

a half hours before they got to my classroom. While this is not an ideal situation, at least they got to school.

"It is important to ensure that these students in rural areas have the opportunity for a safe route to school. There is no other viable public transportation available to students in these areas, and the large distances make it difficult to coordinate rides in any meaningful way. I believe that the Legislature has a fiduciary responsibility to set forth a policy that ensures all of our students have fair and equal access to a quality public education. An important part of this policy is providing bus transportation to our students who need it."

Representative Carroll rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, in my district I have islands. I'm a 'canoe district.' So let me start by saying, on the Island of Lanai there's one school and not everybody has the means of transportation. There is no public transportation there, and to walk to that school may take hours.

"On the Island of Molokai there's lot of distance between the schools. By not having a bus system it would only encourage the students to be truants, to stay home, and possibly hang out with their friends and do drugs. We don't want to promote that.

"And on East Maui where I live, it's very dangerous because there are no sidewalks. There are no safe zones for these kids to walk. So if you don't provide them with the kind of transportation that they need to get to school, what will happen is that they will hitchhike because in the County of Maui you can hitchhike, but we don't want to promote that because we never know what may happen to our kids. They may end up in the bush. They may end up in a ditch.

"We need to look at safety, we need to look at providing the means so that they can learn, and giving the parents the option. Many of the parents in my district work more than one job. It's very hard for them to coordinate or even have a car. They have to carpool and find other means to get to their jobs. Mr. Speaker, I'd like to ask that the comments from the Representatives from Wailuku and Lahaina be inserted in the Journal as my own. Thank you."

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

"Thank you, Mr. Speaker. I'd like to ask for a ruling on a potential conflict. My son rides the public school bus to school every day, and his mom lives a mile and a quarter from the school," and the Chair ruled, "no conflict."

Representative Tokioka continued to speak in support of the proposed floor amendment with reservations, stating:

"Thank you. I'm in support with some reservations. I'd also like to ask that the comments of the speaker from the Volcano area be entered in the Journal as if they were my own, those brief words. Mr. Speaker, I think some of the things that we learned during this whole issue of transportation and getting our kids to schools is that there are districts on the Neighbor Islands, and here as well on Oahu, where kids have no other option. So for that reason, I'm in strong support of it.

"But as a member of the Finance Committee, I also see the pain and suffering that many other agencies have gone through as well. So for those reasons I have some reservations because we don't want to over-promise and under-deliver. And we don't know how we are going to manage this fiscal crisis. I think as the Finance Chair has spoken about earlier, we did our best to manage the crisis as we saw it.

"So for those reasons Mr. Speaker, I stand in strong support with some reservations. But I want to thank everyone for being involved, for the bus drivers and the companies that came, for the Board of Education that came to discuss their concerns and all of the parents who emailed us and shared their concerns with us. Thank you, Mr. Speaker."

Representative Thielen rose and stated:

"Thank you, Mr. Speaker. Mr. Speaker, I have a procedural question and I would like to address it if I may to the Majority Leader."

At 11:54 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:58 o'clock a.m.

Representative Thielen rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I am in opposition to this floor amendment. I sympathize with the need to get children to school safely, but my concern is the underlying bill is so important. It will extend the school day, the school hours for students. It is so important. And if we pass an amendment and the Senate does not do it in the exact same form, then the underlying bill will be dead, and that's too big a risk. Too many people have worked too long and too hard to get our children back into school."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, thank you very much. You may address this issue when we get back to the main motion. Thank you."

Representative Thielen continued, stating:

"Fine. And then these are my reasons though Mr. Speaker, why I cannot support this floor amendment and I would really strongly urge everyone else in this Chamber to oppose the floor amendment. Not on the merits, the merits were good. But oppose it because we need to get the children back into school for longer hours and to educate them. Thank you."

Representative Sagum rose in support of the proposed floor amendment and asked that the remarks of Representatives Souki and Tokioka be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Tsuji rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, in support. Thank you."

Representative Finnegan rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition and short comments. This amendment changes the language from, 'the Department may,' to, 'the Department shall provide suitable transportation to and from school and for educational field trips for all children grades Kindergarten to 12th grade.'

"Mr. Speaker, I think the arguments that have happened on the Floor are good ones, but this bill is not pragmatic and the reason why I say that is because I look at the words and it says, 'and for educational field trips.' My daughter or my son may go to the Big Island. In the morning they meet at the airport at 5:00 in the morning. Does that mean that you have to get the children from their home to the airport? And that now the Department of Education has to provide that transportation?"

"Mr. Speaker, in the budget I believe there's \$64 million for transportation. Right now, as I understand it, these contracts for transportation, sometimes there's only one bid that goes in for a particular area when there could be more companies that actually bid for that contract. The competition in that area, sometimes the contract comes back and might be more than it needs to be.

"Mr. Speaker, you need to allow the Department of Education, as well as the Board of Education to go through a process on where there absolutely needs to be transportation and let them decide on how to provide that. If

\$64 million is not enough money for transportation for the kids of Hawaii, then what we should do is go to the Department of Education, and the Board of Education meetings, and talk about prioritizing maybe some of the issues where transportation is a little bit less attainable and prioritize those districts as having transportation and bus services.

"Mr. Speaker, when that happens, I don't think that you'll end up seeing the transportation money come away from those areas, whether 3 miles, 6 miles, or halfway across the Big Island, or Maui, or between oceans. That won't happen with \$64 million, Mr. Speaker.

"So it's just the pragmatism of this particular amendment that I think that we need to take a look at, be mindful that we cannot box in the Department of Education to provide suitable transportation to and from school and for educational field trips for all children. I don't think that that is something that we should bind the Department of Education, especially when parents, teachers, principals and school communities are willing to work with the schools. Thank you."

Representative Ward rose and stated:

"Mr. Speaker, I have a procedural question. If in effect, the concern is that our amendment will not mesh, gel, or be equivalent to the Senate amendment, why do we not just amend the amendment to make it fit so this transportation issue can be expedited and we get on with it, rather than having the whole thing die and then these kids that have got no way to school don't get to school."

The Chair then stated:

"Representative Ward, you are in support of the floor amendment? With an amendment? I do not have your amendment."

Representative Berg rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I rise in opposition to the amendment proposal and just a few brief comments. I'd like to call on our colleagues to just take a breath. This is not a transportation bill that we're talking about. The intent of the paragraph in this bill that relates to transportation was added so that the Department of Education's attention could be called to the fact that if instructional hours become changed and schedules are then affected, we would like the Department to be cognizant of wanting to have transportation to be congruent.

"So in other words, if the elementary schools will start at the same time as the high schools, then transportation should be adjusted accordingly. I think what's really important is we hear our colleagues' comments about transportation, especially on the Neighbor Islands, that in the following Session they'll become priority in the budget to assign moneys, if that be the case.

"As the Minority Leader had shared, it is to then talk to the Board of Education. So I would ask our colleagues, with all due respect to the initiator of the floor amendment, to pause for this moment and really consider the underlying bill. Thank you, very much."

Representative Hanohano rose to speak in support of the proposed floor amendment, stating:

"Mahalo ho'omalū 'ōlelo. Ke kū nei au e kako'o loa kēia kumu mamua kākou. Makemake au e 'āpono nā hua'ōlelo 'o nā luna maka'ainana mai ka lua pēle, Hamakua, Waiakea, Hana, Lahaina a me Wailuku, e like me ko'u mana'o. Mahalo."

Representative Hanohano provided the following translation:

Mr. Speaker, I rise in strong support of this matter before us. I would like to adopt the words of the Representatives from Volcano, Hamakua, Waiakea, Hana, Lahaina and Wailuku as if they were my own. Thank you.

Representative Wooley rose in support of the proposed floor amendment and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Wooley's written remarks are as follows:

"This floor amendment to HB 2486 would require that bus service continue to be provided so that our kids can get to and from school safely. The amendment would change the bill so that it is mandatory rather than permissive to provide this bus service. I support the amendment for the sake of our kids, their safety, and their future. Particularly for kids in rural areas, such as kids in my district, public school bus service must continue. There are few sidewalks and the roads are dangerous and not designed for the safety of our children. I ask that you all support this amendment so we can be sure our kids are transported to and from school safely."

Representative Takai rose to speak in support of the proposed floor amendment with reservations, stating:

"Mr. Speaker, in support with reservations. Thank you. I'd like the Representative from Wailuku's comments entered into the Journal as if they were my own. Thank you, Mr. Speaker. I do understand and appreciate the concerns about the underlying bill and the importance of the underlying bill.

"However, I think that if I put myself in the position of our Neighbor Island colleagues and try to understand the situation from their position, I think we'll all agree that the student transportation issue is a big one. I'm voting in support with reservations because I do believe that the Department of Education has to send a message, a letter, some kind of information to our Neighbor Island colleagues and our colleagues on the rural part of the Island of Oahu with clear plans in explaining their position on student transportation as we move forward.

"Because as I've said many times in the past, a student learns best in school. In fact we have numerous studies that show that the number one factor of student success is student attendance. And if a student isn't in school, he or she does not learn. Thank you, Mr. Speaker."

Representative Chang rose in support of the proposed floor amendment and asked that the remarks of Representative Souki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Yamashita rose to speak in support of the proposed floor amendment, stating:

"Thank you very much, Mr. Speaker. In support. Basically I am supporting all the comments made by my Neighbor Island colleagues, but also I'd like to just make note that if this floor amendment doesn't make it, that I publicly would like to request that the Board of Education and the Department look at possibly funding transportation through a mechanism similar to free and reduced lunch based on the means of being able to pay. I think there are those that can afford to pay more, and maybe that could be an option as far as funding transportation. Thank you."

Representative Keith-Agaran rose to speak in support of the proposed floor amendment, stating:

"Thank you Mr. Speaker, also in strong support and again, I would echo the remarks of all the previous speakers from the Neighbor Islands, that this is an important issue for us. Thank you."

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

Representative Coffman rose to speak in support of the proposed floor amendment with reservations, stating:

"Thank you, Mr. Speaker. In support with some reservations. On the Big Island, basically our schools are literally miles and miles apart, and we have no sidewalks. We need busing, Mr. Speaker. Thank you."

Representative Bertram rose to speak in support of the proposed floor amendment, stating:

"In strong support."

Representative Souki rose to respond, stating:

"Yes thank you very much, Mr. Speaker and Members of the House. Thank you for your patience, and hopefully your understanding of the problem which is not only of the Neighbor Islands, but with the rural areas of Oahu. We understand that this bill, while I believe is very important, the message is even more important. And I believe that we have sent a message, that there is a problem somehow in communicating the transportation needs between the Board and maybe even ourselves.

"I believe we need to look at this a little more comprehensively, Mr. Speaker. And I wish to thank you for giving us the opportunity to speak our minds relative to the need. With this Mr. Speaker, I wish to withdraw my motion."

Representative McKelvey rose, stating:

"Yes Mr. Speaker, I too will withdraw my motion. But I hope the message has been received loud and clear by the Department of Education. Thank you, very much."

At this time, Representative Souki withdrew his motion, and Representative McKelvey withdrew his second.

(Main Motion)

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

"Thank you. Just in strong support."

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

"Thank you. In strong support of the underlying motion. I want to thank the Representative from Maui for withdrawing his amendment because otherwise we would have lost the bill to provide for a decent number of instructional hours in our schools. We have a lot of catching up to do Mr. Speaker, and this bill is a first step. I thank him very much for that."

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

"In strong support, Mr. Speaker. I think we can all agree that Furlough Fridays are probably the worst thing that would happen to the families of our community. This bill, I think, is one of the most important bills that we're going to pass this Session because it sends a very clear message to our leaders within the Department of Education that you can never touch our school days again. That can never be an option when budgets are reduced. So I think many parents, students, as well as teachers, will breathe a very large sigh of relief today with this passing."

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

"Mr. Speaker, in strong support. I'm very proud to support this measure that addresses one of the most pressing issues that everyone would like to see solved. As a former educator at Ma'e'ma'e School, I can't tell you how saddened I felt when I know that our public school students are not going to school on Friday. And that the parents are struggling to find care for them. So this is a measure that we can stand behind, and I'd just like to ask for additional written comments."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support to H.B. 2486 - which establishes a minimum number of instructional hours per school year for each grade. Although we find ourselves in a state of economic crisis, the education of Hawaii's students should always be one of our top priorities. We must recognize that the length of the instructional day in Hawaii's

public schools is among the shortest in the nation. Hawaii has come up short with our schools having fewer than 750 instructional hours per year, when the standard for private and public schools is 900 hours per year. In addition, 80% of American schools spend less than Hawaii at \$10,200 per student yet we have less instructional time than any other state in the nation. These numbers cannot be ignored. Thank you."

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

"Thank you Mr. Speaker, I rise in favor of this bill. I am delighted to see that we have some mandated days for education. I think parents will be very happy to see that. But on the other hand I would like to caution that this is mandated only for the years 2011 to 2013, and after that we must remember to continue this policy of setting it down by legislation. I would not like to see it revert back to collective bargaining to be determined in that arena as to how many schools days we need. I just rise to bring up that point. Thank you."

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

"Thank you in strong support, and may I insert written comments."

Representative Belatti's written remarks are as follows:

"I rise in strong support of HB 2486, CD 1 which increases the number of instructional hours for Hawaii's public schools over a five year period and requires the Department of Education, the Board of Education, and the Governor to come up with a plan, in consultation with representatives of affected collective bargaining units, that will achieve this higher number of instructional hours to benefit our public school children.

"The 2009-2010 school year, with its 17 Furlough Fridays, has been a tragedy for the public school children of this State. It is shameful that we, as a State, have been unable to come to an agreement to put Hawaii's children first and to recognize the importance of prioritizing our children's future and their opportunities to succeed, especially if we want this State to prosper in the future. HB 2486, CD 1 sets us on the right path of setting some minimum standards for public education that cannot be collectively bargained away by the adults sitting around the negotiation table. We cannot, of course, stop with this type of reform, but hopefully this bill will foreclose future furloughs to our children's potential for success.

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

"Mr. Speaker, in support. Mr. Speaker, this bill will fulfill a large *puka* if you will, in what otherwise all of us assume that we would have a 180 days in our educational system. We would never slip down below to where we were as the national joke, 163 days. Third world countries have much more education than we.

"This gets us back up, but Mr. Speaker I would encourage us to think even beyond this to 190 to 200. I know it's not just quantity. It's quality. We've got to push the envelope continually. And speaking of which, we've got to push this transportation envelope. This 'loosey goosey,' 'may' or 'you can consider,' that's not going to cut it. The kids have to get to school. This is still pretty soft, mushy language. I think we can do better. But this fulfills a commitment to the people. Furloughs will not continue. Thank you, Mr. Speaker."

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

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 rise in support of this bill. HB 2486, H.D. 2, S.D. 2, C.D. 1 requires a certain number of student instructional hours at all public schools. This bill also requires the Department of Education

(DOE) to consider pick-up and drop-off times that optimize its transportation services while minimizing costs to the State, if implementation of such student instructional hours results in varying schedules for the transportation of students.

"This bill focuses the number of DOE school days where it belongs – on actual classroom instructional time. This bill increases the amount of quality time students spend in the classroom by requiring intermediate and high school students to receive more instructional time than most other states – six and a half hours a day over 180 instructional days.

"Currently, Hawaii is one of only a handful of states that does not set a minimum of instructional time statutorily, but rather relies on collective bargaining with the Hawaii State Teachers Association. It has been well publicized that the imposition of 17 furlough days for School Year 09-10 and School Year 10-11 gives Hawaii the shortest instructional year in the nation. According to the Education Commission of the States, Hawaii currently also has one of the shortest school days in the country. This reality is counter to the direction taken by the U.S. Department of Education of encouraging states to increase learning time for students by offering financial incentives.

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

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

Representative Nakashima's written remarks are as follows:

"I believe that this bill sets forth the legislative intent and policy of the State that any future budgetary constraints should not negatively impact the number of instructional days available for the quality delivery of education in our public schools. The furloughs have resulted in our schools having the lowest number of instructional days in the country. That, coupled with the low level that our students consistently test at, prove that educational reform is not just something we should want to do, it is a necessity. While this measure may not be the 'golden egg,' it is an important first step in ensuring a quality public education for our children."

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

Representative Bertram's written remarks are as follows:

"While the DOE has received significant cuts in its operating budget and must look at all options when minimizing costs, it cannot be at the expense of our children's safety. Extending out the perimeter of school buses that would require children to walk farther to school presents more opportunities of danger such as increased traffic exposure."

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

"I stand in strong support, and wish to thank the colleagues for their vision. 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. 2486, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

At 12:15 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2486, HD 2, SD 2, CD 1

Conf. Com. Rep. No. 69-10 and S.B. No. 2646, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2646, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

At this time, Representative Shimabukuro offered Floor Amendment No. 16, amending S.B. No. 2646, SD 1, HD 2, CD 1, as follows:

"SECTION 1. S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1, is amended by amending sections 1 and 2 as follows:

1. By amending paragraph (1) of section 1 (page 1, lines 12-15), be deleting the terms "recreational" and "competitive" and to read:

"(1) Formal worldwide recognition of the designated surfing site as an area that has quality surf and significant cultural, historical, and sports value;"

2. By amending the first paragraph (3) of section 1 (page 2, lines 1-3) to read:

"(3) Promotion of the long-term preservation of Hawaii surfing reserves."

3. By amending the last paragraph of section 1 to delete the reference to Makaha Bay and to read:

"The purpose of this Act is to designate the surf breaks:

(1) From the Ala Wai to the Waikiki War Memorial Natatorium on the island of Oahu; and

(2) From Haleiwa to Sunset beach on the island of Oahu, as Hawaii surfing reserves."

4. By amending section 6E- (a), Hawaii Revised Statutes, in section 2 to delete the reference to Makaha Bay and to read:

"(a) There is established:

(1) The Waikiki Hawaii surfing reserve, which shall include all surf breaks off the area of Oahu bounded by the Ala Wai and the Waikiki War Memorial Natatorium; and

(2) The north shore Hawaii surfing reserve, which shall include all surf breaks off the area of Oahu from Alii beach in Haleiwa to Sunset beach.

Each Hawaii surfing reserve shall extend from the high water mark and include all surf breaks within the defined reserve."

Representative Shimabukuro moved that Floor Amendment No. 16 be adopted, seconded by Representative Nishimoto.

Representative Thielen rose and stated:

"Thank you, Mr. Speaker. I have the same concern. It's a procedural question as to whether or not the Senate is considering the exact same language in a floor amendment?"

The Chair addressed Representative Thielen, stating:

"I believe the sponsor of the floor amendment will speak on that after you are finished speaking. Representative Thielen, would you give up your time for the sponsor of the floor amendment?"

Representative Thielen: "I would like to hear that, and then I would like to speak. Thank you."

Representative Shimabukuro rose to speak in support of the proposed floor amendment, stating:

"Thank you very much for the question and yes, the Senate has adopted this identical floor amendment on their side earlier today. Really, this amendment is simply to clear up a miscommunication that resulted in adding Makaha to this bill unintentionally, or at least not in the intention of the community. It is also to remove references to recreational and competitive surfing which was intended by the Conference Committee, but was still in the purpose clause. So it's sort of a technicality at this point. Thank you."

Representative McKelvey rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In support of the floor amendment. Just some brief comments. I believe that this floor amendment restores what the House position has been on this issue all along, and that is to give the community the tools it needs and the support to stave off the developmental pressures, as well as to protect the environmental quality of these invaluable areas to the people of Hawaii, Mr. Speaker.

"Bottom line is, if the reefs die Mr. Speaker, and the environment degrades to a point, the waves will stop coming in. They won't break the same way and future generations will not be able to enjoy the very same things that their forbearers once did as well.

"This floor amendment Mr. Speaker, by taking out references to 'competitive,' restores what I believe was the intent all along on this bill, which is to give the community and the various groups who are out there working to try and make sure that these surfing places are there, in perpetuity, the tools it needs to make sure that when they paddle out, they'll enjoy the same clean water, same pristine conditions, and same aloha that we enjoy today, as well as those who've come before us. Thank you."

Representative Marumoto rose to speak in opposition to the proposed floor amendment, stating:

"Thank you Mr. Speaker, I will oppose this particular amendment. I don't quite understand why Makaha was taken out of this measure, because I consider it a great surfing venue. It's famous. Everybody knows this. It's got great surf. My understanding is the area was included at the request of Senate President Colleen Hanabusa and other leaders. So I just feel that it should be included in this bill too, that designates great surfing spots in Hawaii. Thank you."

Representative Thielen rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. With the explanation from the amendment's proponents, I do support the floor amendment. And as the Senate has also passed this exact one, I believe that the Members here should vote for this so we can establish these surfing reserves. It's very appropriate for Hawaii. Thank you."

Representative Brower rose to speak in support of the proposed floor amendment with reservations, stating:

"Mr. Speaker, with reservations. It's just ironic that if this item is so wonderful, why do so many surf spots want to be taken out of it? Once we start to talk about the body of the Act, we see that it's more of a resolution than putting that in statute. I think it would be problematic. Thank you."

Representative Berg rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I rise in support of the floor amendment. Thank you, very much. And I wish to thank the Representatives from Lahaina as well as Makaha for being very deliberate and ensuring that the House's intent to preserve surfing spots is really what the language says. If we are in such a hurry to reserve these spaces, then at least we have another two days, 48 hours, if this floor amendment passes to discuss it. Thank you, very much."

Representative Shimabukuro rose to respond, stating:

"I'm sorry. I just wanted to respond that the reason that Makaha is being taken out is that it was added in on the 23rd of April on Friday by the Conference Committee, and the community in Makaha was unaware of it until after the fact. They just simply aren't really for or against the bill. They just want more time to understand fully, what the implications are before they take the leap and be added in. Thank you."

The motion that Floor Amendment No. 16, amending S.B. No. 2646, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII SURFING RESERVES," be adopted, was put to vote by the Chair and carried. (Representative Marumoto voted no.)

At 12:21 o'clock p.m. the Chair noted that Floor Amendment No. 16, was adopted.

At this time, the Chair stated:

"Members of the House, for this particular measure, Conference Committee Report No 69-10, we will be taking this up on Thursday to make the 48-hour requirement."

Conf. Com. Rep. No. 123-10 and S.B. No. 2395, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2395, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

At this time, Representative Thielen offered Floor Amendment No. 18, amending S.B. No. 2395, SD 2, HD 1, CD 1, as follows:

"SECTION 1. Senate Bill 2395, SD 2, HD 1, CD1, is amended to provide for a smoother transition of public school teachers and their dependents from the voluntary employee's beneficiary association trust to the Hawaii employer-union health benefits trust fund by extending the sunset date of the voluntary employee's beneficiary association trust from six months to twelve months (June 30,2011) as follows:

1. By amending the second sentence of the second paragraph of Section 1 (at page 1, lines 12-13) to read:

"The legislature declares that it does not intend to make

the enabling law permanent, but will extend the sunset date for another pilot testing period."

2. By amending paragraph (1) of Section 1 (at page 2, lines 7-10) to read:

"(1)Extend the enabling law for the voluntary employees' beneficiary association trust for twelve months to provide for a smoother transition to the Hawaii employer-union health benefits trust fund;"

3. By amending Section 2 (at page 3, lines 1-15) to read:

"SECTION 2. Act 245, Session Laws of Hawaii 2005, section 8, as amended by Act 294, Session Laws of Hawaii 2007, section 2, as amended by Act 16, Session Laws of Hawaii 2008, section 18, as amended by Act 5, First Special Session Laws of Hawaii 2008, section 1, is amended to read as follows:

"SECTION 8. This Act shall take effect upon its approval, for the purpose of establishing a voluntary employees' beneficiary association trust pilot program in March, 2006 and shall be repealed on ~~[July 1, 2010]~~ June 30, 2011; provided that sections 89-2, 89-3, 89-6, and 89-9, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the effective date of this Act; and provided further that the amendments made to section 89-6, Hawaii Revised Statutes, by Act 202, Session Laws of Hawaii 2005, shall not be repealed when that section is reenacted on ~~[July 1, 2009-] July 1, 2010.~~"

Representative Thielen moved that Floor Amendment No. 18 be adopted, seconded by Representative Marumoto.

Representative Thielen rose to speak in support of the proposed floor amendment, stating:

"Thank you. Mr. Speaker, this floor amendment is identical to the one that has already been passed by the Senate which means that it would not kill action on extending VEBA, which is the health insurance for the teachers.

"Mr. Speaker, I know that there's a move to put everyone within the same plan, and that's the Employer Union Health Benefits Trust Fund, but that Trust is experiencing a great deal of trouble as everyone here in this Body knows. The underlying bill itself would allow VEBA to continue until the end of December. I believe that it should be extended as provided in the amendment so the new administration could take a look at that and see whether or not it would support a continuation of the VEBA plan.

"VEBA has been very good for the teachers. They have had good coverage at a decent cost. I don't like to penalize them by taking it away from them. That's the purpose for the amendment. Thank you."

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I rise in support of the amendment. Mr. Speaker, it would seem to be the only right thing to do. You can't suddenly crash, stop and then continue with benefits that otherwise would expire within a matter of weeks or months. I know there's a six month extension. This gives some breathing room. It gives a chance to figure out what we're doing and where we are going.

"The previous speaker mentioned the EUTF. The EUTF is bleeding \$1 million per month. I've heard jokingly and then seriously, VEBA should take over EUTF. They're doing a better job at it. The point is, we've got to get health benefits straight, just the same way we're getting Furlough Fridays straight. We've got to get this, and this is the first beginning for that. So this amendment is a first step forward."

Representative B. Oshiro rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, I rise in opposition to the amendment. Very briefly I will just cite a letter by our State Office of the Auditor dated December 2, 2009, and therein she basically summarizes why she does not believe continuation of the VEBA plan is appropriate.

'We found that the VEBA Trust pilot program, one, promotes adverse selection and increases premium cost for the EUTF enrollees. Two, it duplicates administrative costs borne by the State employer. And three, it cannot ensure transparency and accountability in providing health benefits for teachers and teacher retirees. Overall the HSTA VEBA Trust breaks up the EUTF health plans and they negatively effect the EUTF.'

"I believe that this conclusion by our State Auditor as fully documented in her report is something we need to pay attention to. The underlying bill provides a six month window with which to provide for transition. I believe that six months is appropriate for that transition and that one year is much too long, if we are going to continue to save costs. People have been talking about bleeding all over this place. We just passed our State budget. We talked about our huge deficit and the need to actually live within our means. And surprisingly, despite what our own Auditor is recommending, people here are going forth with recommendations that go counter and contrary to our need to contain costs. For those reasons I rise in opposition."

Representative Marumoto rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, yes I favor the amendment and hope that others would see the rationale of it. But as the Hawaii Kai Representative pointed out, the Hawaii Employer Union Health Benefits Trust Fund is encountering numerous difficulties performing its duties and has been for several months, since the end of last year. It's due to increased and more complex workload, a shortage of personnel, which I don't think we could help soon enough, and absence of Board leadership. Hopefully a bill will help change that, but that will take some time to put into place. And a lack of administrative leadership. They need strong leadership immediately, and hopefully they have someone in mind, but how fast can that person get up to speed.

"The staff of the Hawaii Employer Union Health Benefits Trust Fund will experience difficulty assisting in the transition of thousands of public school teachers and all their dependents from VEBA to the Hawaii EUTF. So we must give them more time. They have many current duties which they also must handle and this would be additional duties. So I urge you to consider the transition time needed. Thank you, very much."

Representative Rhoads rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, in opposition to the amendment. From the debate so far, you would think that this was a partisan issue, but I don't believe that's the case. When the Labor Committee heard HB 7 back in February, HB 7 was an extension of the VEBA sunset date, both the Department of Human Resources Development and the Department of Budget and Finance testified against the extension. Thank you."

Representative Manahan rose and stated:

"Mr. Speaker, just a point of clarification. Is this particular floor amendment the same version that was passed out by the Senate?"

The Chair responded, stating:

"I believe so, but I may stand corrected. It may, or may not be the same at this point."

At 12:29 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:32 o'clock p.m.

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. I am still in favor of the amendment. I would just like to remind Members that the Senate has passed this exact amendment. If we do not pass it, what that means is that VEBA ends in June, this June. And EUTF no way can handle that. It would be disastrous for the teachers, the retired teachers, and their families. So I would encourage everyone to vote for this amendment, Mr. Speaker. Thank you."

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

"Mr. Speaker, may I have a ruling on a conflict? I have a VEBA plan. 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."

At this time, Representative Marumoto requested a roll call vote.

The request of roll call was put to vote by the Chair and upon a show of hands, the request was not granted.

The motion that Floor Amendment No. 18, amending S.B. No. 2395, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry. (Representatives Finnegan, B. Oshiro and Rhoads voted no.)

At 12:34 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:44 o'clock p.m.

Representative Thielen called for a division of the House to challenge the failure of Floor Amendment No. 18, and upon a standing vote, the decision of the Chair was upheld.

Representative Marumoto rose and stated:

"Mr. Speaker, point of parliamentary procedure. I was not aware that we needed a certain number to carry on a division."

Speaker Say: "It is in the House Rules that is before you on your particular desk. Yes it is."

Representative Marumoto: "Thank you."

(Main Motion)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2395, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," passed Final Reading by a vote of 51 ayes.

At 12:46 o'clock p.m., the Chair noted that the following bill passed Final Reading:

S.B. No. 2395, SD 2, HD 1, CD 1

ANNOUNCEMENTS

Representative Yamane: "Thank you, Mr. Speaker. Members and guests in the Gallery, today we have a new father, a colleague of ours, Representative Aquino from Waipahu. He and his wife have a baby boy, Ethan James Aquino. He was 5 pounds, 11 ounces and born at Kapiolani Women's and Children's Hospital at 12:47 a.m. this morning. So he's a new father, as well as he is here today. Thank you."

Speaker Say: "Representative Aquino, would you like to say a few words about your new son?"

Representative Aquino: "Thank you, Mr. Speaker. I don't have much to say at this time. My wife and I are very, very happy and blessed. Some of the Members here have given me a lot of good advice. I'll be looking forward to calling you for more advice. Thank you so much."

CONSENT CALENDAR

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, at this point everyone realizes that there will be no discussion as these items were agreed upon by this Body for placement on the Consent Calendar."

Representative Yamane rose and stated:

"Mr. Speaker, sorry, I do need to ask for a ruling on a potential conflict."

At this time, the Chair stated:

"At this point for all of you here this afternoon, for those measures that are in the Consent Calendar and for those who have voiced their conflict of interest ruling before this Body, it will be a blanket 'no conflict' for all of you."

Representative Yamane: "Thank you, Mr. Speaker."

Speaker Say: "For the Consent Calendar portion. Representative Takai, you're inquisitive. What I'm saying is that it's an across the board, 'no conflict.'"

Representative Takai: "Mr. Speaker. I think that's a new precedent that you're setting and I understand it. I do have some concerns. May I suggest that Members, if they want to they can insert written comments regarding that issue."

Speaker Say: "I'm going to make a statement on that."

Conf. Com. Rep. No. 9-10 and H.B. No. 2077, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 2077, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 11-10 and H.B. No. 2533, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2533, 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 H.B. No. 2533, HD1, SD2, CD1 which amends Chapter 88, Hawaii Revised Statutes by establishing conditions of reemployment of a retirant in certain State or county positions without reenrollment in the Employee Retirement System ("ERS") or loss or interruption of retirant benefits.

"This measure also requires reimbursement of retirement allowances or other benefits received during the reemployment, and payment of contribution that should be paid during reemployment for retirants reemployed in violation of the conditions for reemployment. By establishing penalties for those in violation, Chapter 88 of the Hawaii Revised Statutes conforms to Chapter 88 of the Internal Revenue Code.

"This amendment clarifies the circumstances under which a retirant may be reemployed without suspension of benefits while providing remedies for the system if the conditions set forth in this measure are violated. This balancing of interests also protects the tax exempt status of the ERS.

"I urge my colleagues to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2533, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT OF EMPLOYEES' RETIREMENT SYSTEM RETIRANTS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 12-10 and H.B. No. 1190, 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. 1190, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ACCIDENT INVESTIGATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 13-10 and H.B. No. 2020, 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. 2020, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 14-10 and H.B. No. 1854, 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. 1854, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 15-10 and H.B. No. 2676, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 2676, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KAHO'OLAWA ISLAND RESERVE COMMISSION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 19-10 and H.B. No. 1684, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1684, HD 2, 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 rise in support of this bill. The purpose of HB 1684, H.D. 2, S.D. 2, C.D. 1 is to prevent and reduce the intentional introduction and spread of invasive species by establishing and revising penalties appropriate to the harm caused by the intentional introduction and spread of invasive species to the economy, natural environment, and the health and lifestyle of Hawaii's people.

"Invasive species represent the single biggest threat to Hawaii's natural environment. Pests have already caused millions of dollars in crop losses, the extinction of native species, the destruction of native forests, and the spread of disease. Many more harmful pests, however, currently threaten to invade Hawaii and wreak further damage. Due to its isolation, Hawaii originally had thousands of unique species found nowhere else on Earth. Today, with less than 0.2% of the land area of the United States, the Hawaiian Islands support more than 30% of the nation's species listed under the Endangered Species Act. In fact, Hawai'i is well known as the extinction capital of the United States. Further, it is estimated that now as much as 30% of all established species in Hawai'i are nonnative.

"I support the increase in fines and penalties so that people are deterred from breaking the law. I also feel it's important to provide funding to increase the number of State agricultural inspectors at ports of entry to help enforce this law and maximize its effectiveness.

"I urge my colleagues to vote in favor of 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. 1684, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 21-10 and H.B. No. 2283, 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. 2283, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 22-10 and H.B. No. 1863, 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. 1863, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 23-10 and H.B. No. 1992, 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. 1992, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERMEDIATE APPELLATE COURT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 26-10 and H.B. No. 2288, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2288, 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 rise in support of this bill. The purpose of HB 2288, H.D. 1, S.D. 2, C.D. 1 is to prohibit deed restrictions or

covenants that require a transferee of real property to pay transfer fees to the person imposing the deed restriction or covenant in connection with a transfer of real property.

"A Private Transfer Fee (PTF) is a fee imposed by a private party which requires the payment of a certain amount (usually a percentage of sales price), potentially in perpetuity. PTFs may be imposed via deed restrictions or covenants. Sometimes, PTFs may be imposed as part of a new housing development upon the initial and subsequent purchasers of the property. These restrictions run with the land, and may not necessarily be disclosed formally to subsequent buyers until the closing of a property sale.

"Presently, there is no regulation over the imposition of PTFs. There isn't a limitation on the application of the fees and no accountability or oversight of the recipients of the fees. I understand the concerns with PTFs because they potentially decrease housing affordability and in certain circumstances may provide no benefit to the purchasers. I do support PTFs that fund maintenance of conservation easements. Conservation easements are important tools to protect and promote open space and Hawaii's natural vistas and resources. All residents, and certainly the owners of lands burdened by conservation easements, benefit from well-maintained and preserved natural areas within or adjacent to those lands.

"I urge my colleagues to vote in favor of 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. 2288, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE TRANSFER FEES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 27-10 and H.B. No. 2497, 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. 2497, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 28-10 and H.B. No. 2919, 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. 2919, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 31-10 and H.B. No. 2061, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 2061, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 32-10 and H.B. No. 869, 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. 869, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 33-10 and H.B. No. 2349, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2349, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Yamane's written remarks are as follows:

"Thank you, Mr. Speaker. House Bill 2349 extends protections from assault and terroristic threatening to a specific list of Emergency Room Personnel. On this measure, I stand in strong support.

"As a social worker who has provided services in the Queen's Medical Center Emergency Room, I am well aware of the frequency in which acts of assault are committed against Emergency Room staff members. In a recent national survey by the Emergency Nurses Association, more than half of emergency department nurses reported that they had been physically assaulted on the job. The U.S. Department of Labor reported similar statistics, concluding that the greatest number of physical assaults occur in Emergency Rooms across the nation.

"Emergency room services provided by a range of workers in the E.R. are vital to our health care system in Hawaii. By protecting our emergency room personnel from violent acts, we ensure a safer environment in Hawaii's hospitals and allow our health care workers to provide better care to our citizens in their greatest time of need. 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. 2349, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VIOLENCE AGAINST HEALTH CARE PERSONNEL," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 34-10 and H.B. No. 2575, 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. 2575, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAUMA," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 37-10 and H.B. No. 2725, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2725, 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. The purpose of this bill is to revise laws prohibiting the cruel treatment of pet animals by specifying the standards of care that an owner must provide a pet animal, including the type of pet enclosure and under what conditions and when veterinary care must be provided.

"The new amendment requires that the area of confinement in a primary pet enclosure must: provide access to shelter; be constructed of safe materials to protect the pet animal from injury; enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health; provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird a perch that is large enough for the bird to perch upon in a normal manner; provide sufficient space to allow the pet animal to, at minimum, easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and interact safely with other animals within the enclosure. Finally, one must provide veterinary care when needed to prevent suffering for the pet animal.

"A pet animal is defined under section 711-1100, Hawaii Revised Statutes, as "a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

"Nothing in this bill is intended to apply to animals that are raised for food, such as any livestock or chickens that are raised for consumption or for eggs, nor to any pigs or rabbits that are raised specifically for consumption. Thank you."

Representative Nakashima's written remarks are as follows:

"As a member of the Conference Committee, I would like to express my appreciation to the Judiciary Chairs for working with me to ensure that the concerns of farmers and ranchers throughout the State were adequately addressed in the final version of this bill. This bill ensures that standards

of care for pets do not infringe on the growers of animals for the purposes of food or consumption. The bill, as originally drafted, would have hurt the ranching industry immensely. I am proud of the collaboration between the parties in reaching a compromise that demands humane treatment of animals, while ensuring the ranching industry can continue to thrive."

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

"Mr. Speaker, I rise in support of House Bill 2725, Conference Draft 1. This measure revises current law that prohibits cruelty to pet animals by specifying the standards of care that a pet owner must provide to their pet.

"It is hoped that this measure will help to improve the health and wellbeing of our pets. There are many pets in Hawaii that spend a considerable amount of their day in a kennel or cage. While some may think keeping their pets in a kennel or cage is a convenient way to keep the pet safe and sheltered, there needs to be standards for these enclosures. Growing up in a family that loved our dogs and treated each as a member of the family, I cannot imagine the horrors of the severe enclosures used to impound dogs today. This is why I strongly support this measure.

"Specifically, Mr. Speaker, this measure requires pet owners, who choose to house their pets in a cage or kennel, to use a primary pet enclosure that provides the following:

1. Access to shelter;
2. Be constructed of safe materials that will not cause harm or injury to the pet;
3. Enable the pet to be clean, dry and free from excess waste or contaminants;
4. Have a solid surface or resting platform large enough for the pet to rest on in a normal manner; or in the case of a caged bird, a perch large enough for the bird to perch on in a normal manner; and
5. Have sufficient space for the pet to easily sit, stand and make all other normal body movements in a comfortable manner without making contact with any other animal that may be in the same enclosure.

"It also requires a pet owner to provide veterinary care, when needed, to prevent the pet from suffering. Hawaii is one of the remaining states that do not require veterinary care for pet animals. This provision alone corrects a long time deficiency of present laws and makes this measure worthy of its passage alone. It is also consistent with Hawaii's progressive and compassionate public policies regarding both man and beast.

"The Humane Society of the United States, Hawaiian Humane Society, Kauai Humane Society, Maui Humane Society and many concerned individuals testified on this measure. Those who have testified have cited examples of dogs that were kept in cages. The reason for housing them in cages was that the waste and urine would fall through the bottom of the cage, making it easier for the owner to clean without having to open the cage. While it is convenient for the owner, the pet suffers as it must stand or sit on the wire/metal bottom of the cage. Prolonged standing or sitting in these cages have the potential to cause hock sores and/or lacerated feet which can lead to bacterial infection and other health problems. Convenience should never be the deciding factor in how we treat and house our pets.

"Mr. Speaker, it is one thing to want to have a pet, it's another to properly take care of that pet. If one does not have the time or inclination to take care of a pet, then one should not have a pet. For many people, pets are like family. No one would think of allowing a family member to live in subpar or hazardous accommodations.

"Also, by mandating certain standards for kennels and cages this measure may be the first step toward preventing "puppy mills" and mass breeding operations where dogs are kept in dirty cages that are cramped, preventing them from engaging in simple bodily movements.

"For the above reasons, Mr. Speaker, 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. 2725, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 38-10 and H.B. No. 2661, 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. 2661, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 43-10 and H.B. No. 2604, 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. 2604, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

Conf. Com. Rep. No. 44-10 and H.B. No. 865, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 865, 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 rise in support of this bill. The purpose of this measure is to create a State and county transportation working group to study the feasibility of transferring all applicable State highway maintenance functions to counties with populations that, according to the United States Census Bureau, had a population between one hundred thousand and one-hundred thirty-five thousand in the 2000 Census. This measure requires a report to be submitted to the Legislature.

"While I support the bill, I have some concerns. It's always attractive to talk about streamlining duplicative functions between State and local government. However, there are real differences between the State Highway system built and maintained by the Department of Transportation and the local roads and collector roads maintained by the Highways Division of the Maui County Department of Public Works. Many of those roads are roads that date back to territorial days when an old plantation road may have been paved repeatedly over the decades and become public by donation or use.

"I am concerned whether Maui County will receive the adequate resources and training to maintain its State highways if the functions are moved over in the future from the State. State roads are newer, built under different standards, and have been maintained under different standards. I am also concerned with the lack of clarity for the long-term funding mechanisms that will be available to allow the County to properly maintain the minimum standard of efficiency and management required of this potential jurisdictional and fiscal transfer of responsibility. Additionally, there are no assurances of continued funding at the federal or State level.

"I hope that the study will provide some of these answers before we actually implement a pilot program of some kind.

"I urge my colleagues to vote in favor of 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. 865, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 47-10 and H.B. No. 2505, 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. 2505, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ACCESS HAWAII COMMITTEE," passed Final

Reading by a vote of 50 ayes to 1 no, with Representative Finnegan voting no.

Conf. Com. Rep. No. 59-10 and S.B. No. 950, 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. 950, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC GUNS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 60-10 and S.B. No. 2449, 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. 2449, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 63-10 and S.B. No. 2150, 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. 2150, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 64-10 and S.B. No. 2257, 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. 2257, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC WARRANT VOUCHERS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 68-10 and S.B. No. 2545, 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. 2545, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 70-10 and S.B. No. 633, 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. 633, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 73-10 and S.B. No. 2154, 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. 2154, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT PROBATION RECORDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 74-10 and S.B. No. 2472, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2472, 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 S.B. 2472 S.D.2, H.D.1, C.D.1 which establishes a task force to analyze factors affecting mortgage foreclosures in Hawaii, including relevant laws. The number of residential property mortgage foreclosures in Hawaii cannot be ignored. We have a crisis and the issues involved are very complex.

"During the 2010 Legislative Session, numerous pieces of legislation have been proposed in an attempt to address these issues. It is clear that we need to strengthen protections for consumers in Hawaii and I would

have preferred acting this year to alleviate the pain felt by Hawaii consumers who are losing their homes. However, my colleagues working on these issues have concluded that it is unclear whether any of the proposed legislation will actually improve conditions. The current mortgage foreclosure crisis in Hawaii and across the nation is largely due to lenders that engage in predatory lending tactics and a lack of consumer awareness. Hawaii used to bar non-judicial foreclosures which provided greater protection of homeowners, but which required following long processes in our court system.

"The establishment of a task force made up of knowledgeable people is necessary to enact legislation that addresses the concerns of both borrowers and lenders without placing an undue burden on the courts. The task force will consist of members of organizations to represent all interested parties and stakeholders. This measure is a crucial foundation this Legislature must lay in order to effectively deal with the foreclosure crisis.

"I urge my colleagues to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2472, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 75-10 and S.B. No. 2643, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2643, SD 1, 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 S.B. 2643 S.D.1 HD.1 which extends General Excise Tax exemptions for condominium expenses paid by managers, sub-managers, and sub-operators, and for hotel employee expenses paid by hotel operators and timeshare projects through December 12, 2013, and clarifies that the maximum allowable tax exemption per calendar year is \$400,000. This measure also eliminates the sunset provision on Act 196.

"This exemption applies to certain sums that are transferred from the owner of the properties to the operator of the properties. Included in these sums are employee salaries and benefits. Exempting these sums results in the owner paying the employees directly rather than the operator. Managing employee benefits and salaries locally protects the employees when a hotel is sold. This way, an employee can either be transferred to another hotel operated by the local owner or receive the proper severance package owed to them.

"Thus, this measure helps our local economy by leveling the playing field for local hotel, timeshare and condo-tel operators and sub-operators by allowing them to compete with larger out-of-state management companies.

"I urge my colleagues to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2643, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 77-10 and S.B. No. 2859, 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. 2859, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 78-10 and S.B. No. 2697, 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. 2697, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 79-10 and S.B. No. 506, 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. 506, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 80-10 and S.B. No. 2105, 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. 2105, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR DISABLED PERSONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 81-10 and S.B. No. 2454, 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. 2454, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 82-10 and S.B. No. 2831, 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. 2831, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROCUREMENT CODE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 86-10 and S.B. No. 2745, 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. 2745, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 87-10 and S.B. No. 1230, 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. 1230, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

Conf. Com. Rep. No. 92-10 and S.B. No. 2045, 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. 2045, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 94-10 and S.B. No. 2811, 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. 2811, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PHARMACIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 95-10 and S.B. No. 2610, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2610, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Thielen's written remarks are as follows:

"Mr. Speaker, I rise to speak in opposition to SB 2610, HD 1, CD 1.

"It redirects already limited resources to provide county services rather than allowing the Department to focus its efforts on processing and depositing tax revenues.

"The Department's primary focus, especially during current economic times when the general fund is operating at a deficit, is to process returns and tax checks as soon as possible with the highest priority. Quite simply, this measure could have an immediate impact on the general fund if the Department is forced to reprioritize its processing efforts.

"The counties are already providing conveyance tax documents in a timely and reasonable manner, given the Department's general fund priority.

"If they want the material, they should pay for it just like everyone else."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2610, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Thielen voting no.

Conf. Com. Rep. No. 96-10 and S.B. No. 2806, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and S.B. No. 2806, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 98-10 and S.B. No. 2729, 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. 2729, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO IMMUNIZATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 99-10 and S.B. No. 2473, 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. 2473, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 102-10 and S.B. No. 2601, 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. 2601, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ATHLETIC TRAINERS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 103-10 and S.B. No. 2842, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2842, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Aquino's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in favor of this bill. Mr. Speaker, this measure allows the State to establish the Permitted Transfers in Trust Act. This bill will allow high worth individuals, both in-state and out-of-state, to transfer up to twenty-five percent of their liquid net worth into trusts within the State of Hawaii. This would significantly strengthen our private-financial sector and generate funds for the State through a one-time, one percent tax on the permitted transfer. This is an untapped revenue source that will spur future economic growth and allow Hawaii to be a first-class jurisdiction for the financial planning industry.

"Mr. Speaker, at a time where our economy is in desperate need of a boost, this bill will definitely help."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2842, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PERMITTED TRANSFERS IN TRUST ACT," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Rhoads voting no.

Conf. Com. Rep. No. 104-10 and S.B. No. 2116, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2116, SD 2, 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 support S.B. 2116 S.D.2 HD.2 which authorizes the Governor to delegate to the Superintendent of Education the authority to agree to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees, under certain circumstances, when the use of county property will be for a school purpose or function.

"Public schools on Maui – as is common throughout our State – utilize county property for essential school functions such as sporting events, graduation ceremonies, playgrounds, and physical education facilities. Baldwin High School, for example, uses many facilities at the County's War Memorial complex for their sports teams, and the Maui Interscholastic League uses the County's stadium for many of its events. Our residents, in many cases, don't distinguish between State and county facilities or the bureaucratic idiosyncrasies associated with different agencies – they are mainly interested in seeing their children play in a safe and well-maintained facility, or walk down the aisle in their cap and gowns, or attend a community meeting in a clean building.

"The current process for the Department of Education to obtain approval from the Governor to indemnify the county when a public school uses a county facility for a school function is unnecessarily burdensome, especially when changes discovered too late to follow the usual bureaucratic process of approvals require decisions at a more local level. Many times, the burden falls on the classroom teachers and the individual schools to work through the issues with county officials with details that shouldn't require an entirely new review at the level of the Board of Education, the Superintendent or the Governor. This measure would streamline the indemnification process, easing the burden for teachers and allowing continued use of county property for important public school functions.

"I urge my colleagues to vote in favor of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2116, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INDEMNIFICATION OF COUNTY AGENCIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 109-10 and S.B. No. 2563, 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. 2563, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EFFICIENCY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 110-10 and S.B. No. 2599, 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. 2599, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 111-10 and S.B. No. 2702, 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. 2702, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO A MAJOR DISASTER TRUST ACCOUNT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 112-10 and S.B. No. 2716, 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. 2716, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE ACT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 116-10 and S.B. No. 2691, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2691, SD 1, 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 S.B. 2691 S.D.1 HD.1, C.D. 1 which provides for the payment of State retirement system benefits on a monthly basis by direct deposit to a financial institution account. This bill allows the Employee Retirement System (ERS) to deposit benefit payments monthly to all ERS retirees and beneficiaries once a month. I appreciate the efforts of the Chairs of Labor and Finance, and the Conferees, to address concerns by retirees and beneficiaries for a transition period that helps them cope with and plan for any hardships from the revised payment schedule.

"Under this measure, by July 1, 2011, approximately 25,700 pensioners and beneficiaries out of 38,000 will be paid by the ERS on a monthly rather than on a semimonthly basis. In addition, approximately 1,400 of these recipients will have their benefit payments deposited directly into a financial institution instead of receiving paper checks.

"As a result, ERS will save costs for postage, check printing, check imaging, and bank fees, and will also increase the ERS' investment earnings. The ERS estimates that this proposal will add approximately \$955,000 annually to ERS' bottom line which ultimately benefits all ERS retirees and beneficiaries.

"Out of the 50 state retirement systems in the country, Hawaii is the only retirement system that continues to process pension benefits on a semimonthly rather than on monthly basis.

"I urge my colleagues to vote in favor of this measure."

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

"Mr. Speaker, I rise in support of Senate Bill No. 2691, House Draft 1, Relating to the Payment of Employees' Retirement System Benefits. This bill:

- (1) Requires all retirees and beneficiaries of the ERS to be paid on a monthly, rather than semi-monthly basis;
- (2) Requires all beneficiaries to designate a financial institution account into which the ERS will deposit their pension benefits; and
- (3) Exempts the following retirees from the monthly payment requirement:
 - (A) Retirees or beneficiaries who retired before January 1, 2003;
 - (B) Retirees or beneficiaries who are 80 years of age or older on January 1, 2011; and

(C) Retirees or beneficiaries who receive \$800 or less in pension benefits each month.

"I would like to explain the reasons why I support this bill:

"Approximately 25,700 pensioners and beneficiaries out of 38,000 will be paid on a monthly rather than semi-monthly basis. In addition, approximately 1,400 of these recipients will have their benefit payments deposited directly into a financial institution instead of receiving paper checks.

"This measure will result in cost savings in postage, check printing, check imaging, and bank fees. It will also increase the ERS' investment earnings.

"Hawaii is the only retirement system that continues to process pension benefits on a semi-monthly rather than on a monthly basis.

"Social Security recipients also receive their benefits on a monthly basis.

"And finally, the ERS estimates that this proposal will add approximately \$955,000 annually to the ERS' bottom line.

"For these reasons, I urge my colleagues to support this measure.

"Lastly, your Committee on Conference urges the ERS to clearly inform those affected by these changes well in advance of the change to mitigate the burden the transition from a semi-monthly to monthly system may have on retirees."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2691, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PAYMENT OF EMPLOYEES' RETIREMENT SYSTEM BENEFITS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 117-10 and S.B. No. 2054, 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. 2054, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 118-10 and S.B. No. 2386, 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. 2386, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII CAPITAL IMPROVEMENTS PROGRAM PROJECT ASSESSMENT SPECIAL FUND," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 119-10 and S.B. No. 2400, 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. 2400, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 120-10 and S.B. No. 2603, 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. 2603, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 122-10 and S.B. No. 2809, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2809, 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 rise in support of this bill. This measure proposes to authorize sufficient funding for the operation and staffing of the Public Utilities Commission ("PUC") and the Division of Consumer Advocacy ("DCA") in order to facilitate the agencies' abilities to meet their expected objectives and to fulfill the intent of the reorganizations that were begun with Act 177 and Act 183 from the 2007 Legislative Session. In addition, the measure proposes to require that applicable State and/or county agencies should assist in carrying out the proposed measure.

"This measure would implement the reorganizations of the PUC and the DCA that were approved by the Legislature in 2007 in Acts 177 and 183. The 2007 Legislature's findings say that the reorganizations of these agencies "are essential for providing sufficient regulation of Hawaii's public utilities; controlling utility costs for Hawaii's people, businesses, and governmental agencies; and successfully implementing meaningful energy policy reform in Hawaii."

"SB 2809, S.D. 2, H.D. 1, C.D. 1 is a cost saving measure. It would reduce the annual utility expenditures of State by several times as much as the annual cost of fully funding the reorganization of the PUC and DCA. These agencies regulate over \$3 billion of annual telecommunications and electricity utility bills paid by Hawaii's people, businesses and government agencies. Fully funding the reorganizations would ultimately result in savings of at least \$100 million annually due to increased regulatory efficiency and consumer protection, bolstered utility industry financial health and prudent allocation of utility investments and expenditures.

"Sufficient utility regulation and consumer protection are especially essential in the next several years as Hawaii prepares to invest billions of dollars in new utility and private sector infrastructure associated with a transition from over-dependence on fossil fuels to increased reliance on efficiency and renewable energy resources.

"I urge my colleagues to vote in favor of 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. 2809, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UTILITIES REGULATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 125-10 and S.B. No. 2548, 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. 2548, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 127-10 and S.B. No. 2385, 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. 2385, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Berg and Hanohano voting no.

Conf. Com. Rep. No. 128-10 and S.B. No. 2068, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2068, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Nakashima's written remarks are as follows:

"Research suggests that early education is an important part of children's development. As a result of this, the Legislature implemented a Junior Kindergarten Program. However, few schools have implemented a program and there has not been a cost-effective solution of meeting the needs of the young learners in our State. This measure seeks to change that by requiring the Department of Education and the Early Learning

Council to assess the current Junior Kindergarten Programs and develop a plan to provide cost-effective early education.

"While our resources may currently be slim, as a Legislature, we must decide where our priorities are and what will benefit the State in the long term. I believe this measure does that. We owe it to the young people of Hawaii to ensure that their needs are met and we give them the tools necessary to succeed later in life. Such actions, Mr. Speaker, will only benefit our State in the long run."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2068, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 132-10 and S.B. No. 2491, 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. 2491, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TELEMEDICINE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 134-10 and S.B. No. 2600, 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. 2600, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTHCARE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 135-10 and S.B. No. 2173, 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. 2173, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 137-10 and H.B. No. 2503, 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. 2503, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 138-10 and H.B. No. 2832, HD 1, SD 2, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 2832, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TARO SECURITY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 140-10 and H.B. No. 2594, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2594, HD 2, 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 this bill. This bill provides conforming amendments to the Hawaii income tax law based upon amendments to the Internal Revenue Code for calendar year 2009. It also makes several amendments conforming Hawaii tax law to certain reporting requirements under federal health care reform providing for greater transparency and compliance.

"Pursuant to the Department of Taxation, this bill may have the following positive impacts to revenue in the following fiscal years:

FY 11 = \$7.1 million
 FY 12 = \$5.1 million
 FY 13 = \$10.5 million
 FY 14 = \$11.3 million; and

FY 15 = \$13.4 million."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2594, HD 2, SD 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 51 ayes.

Conf. Com. Rep. No. 142-10 and H.B. No. 2845, 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. 2845, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 143-10 and H.B. No. 2441, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2441, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Aquino's written remarks are as follows:

"Mr. Speaker, I stand in support of this measure. At a time where many workers within our State's construction industry are out of a job, this measure helps to streamline the procurement process so that jobs can get to the unemployed quicker. This is welcomed news for many who are on the bench. The struggles of these hard-working residents have been heard loud and clear and this bill helps to address some of these concerns. 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. 2441, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 145-10 and H.B. No. 1808, HD 3, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 1808, HD 3, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL AREAS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 146-10 and H.B. No. 347, 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. 347, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Final Reading by a vote of 48 ayes to 3 noes, with Representatives Berg, Hanohano and Rhoads voting no.

At 12:52 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2077, HD 1, SD 1, CD 1
 H.B. No. 2533, HD 1, SD 2, CD 1
 H.B. No. 1190, HD 1, SD 2, CD 1
 H.B. No. 2020, HD 2, SD 2, CD 1
 H.B. No. 1854, SD 2, CD 1
 H.B. No. 2676, HD 1, SD 1, CD 1
 H.B. No. 1684, HD 2, SD 2, CD 1
 H.B. No. 2283, HD 2, SD 1, CD 1
 H.B. No. 1863, HD 1, SD 1, CD 1
 H.B. No. 1992, HD 1, SD 1, CD 1
 H.B. No. 2288, HD 1, SD 2, CD 1
 H.B. No. 2497, SD 1, CD 1
 H.B. No. 2919, HD 1, SD 2, CD 1
 H.B. No. 2061, HD 1, SD 2, CD 1
 H.B. No. 869, HD 1, SD 1, CD 1
 H.B. No. 2349, HD 1, SD 2, CD 1

H.B. No. 2575, HD 2, SD 2, CD 1
 H.B. No. 2725, HD 1, SD 1, CD 1
 H.B. No. 2661, HD 2, SD 2, CD 1
 H.B. No. 2604, HD 2, SD 2, CD 1
 H.B. No. 865, HD 1, SD 1, CD 1
 H.B. No. 2505, HD 1, SD 1, CD 1
 S.B. No. 950, SD 2, HD 3, CD 1
 S.B. No. 2449, HD 1, CD 1
 S.B. No. 2150, HD 1, CD 1
 S.B. No. 2257, SD 2, HD 1, CD 1
 S.B. No. 2545, SD 2, HD 2, CD 1
 S.B. No. 633, SD 1, HD 2, CD 1
 S.B. No. 2154, SD 1, HD 1, CD 1
 S.B. No. 2472, SD 2, HD 1, CD 1
 S.B. No. 2643, SD 1, HD 1, CD 1
 S.B. No. 2859, SD 2, HD 1, CD 1
 S.B. No. 2697, SD 1, HD 1, CD 1
 S.B. No. 506, SD 1, HD 3, CD 1
 S.B. No. 2105, SD 2, HD 1, CD 1
 S.B. No. 2454, SD 2, HD 1, CD 1
 S.B. No. 2831, SD 1, HD 1, CD 1
 S.B. No. 2745, SD 2, HD 1, CD 1
 S.B. No. 1230, SD 2, HD 1, CD 1
 S.B. No. 2045, SD 1, HD 1, CD 1
 S.B. No. 2811, SD 2, HD 2, CD 1
 S.B. No. 2610, HD 1, CD 1
 S.B. No. 2806, SD 2, HD 1, CD 1
 S.B. No. 2729, SD 2, HD 1, CD 1
 S.B. No. 2473, SD 1, HD 2, CD 1
 S.B. No. 2601, SD 1, HD 2, CD 1
 S.B. No. 2842, SD 2, HD 1, CD 1
 S.B. No. 2116, SD 2, HD 2, CD 1
 S.B. No. 2563, SD 1, HD 2, CD 1
 S.B. No. 2599, SD 2, HD 2, CD 1
 S.B. No. 2702, SD 2, HD 1, CD 1
 S.B. No. 2716, SD 2, HD 2, CD 1
 S.B. No. 2691, SD 1, HD 1, CD 1
 S.B. No. 2054, SD 2, HD 1, CD 1
 S.B. No. 2386, HD 1, CD 1
 S.B. No. 2400, SD 1, HD 1, CD 1
 S.B. No. 2603, SD 2, HD 2, CD 1
 S.B. No. 2809, SD 2, HD 1, CD 1
 S.B. No. 2548, SD 2, HD 1, CD 1
 S.B. No. 2385, SD 1, HD 1, CD 1
 S.B. No. 2068, SD 2, HD 1, CD 1
 S.B. No. 2491, SD 2, HD 1, CD 1
 S.B. No. 2600, SD 2, HD 2, CD 1
 S.B. No. 2173, SD 1, HD 1, CD 1
 H.B. No. 2503, HD 1, SD 2, CD 1
 H.B. No. 2832, HD 1, SD 2, CD 1
 H.B. No. 2594, HD 2, SD 1, CD 1
 H.B. No. 2845, HD 1, SD 1, CD 1
 H.B. No. 2441, HD 2, SD 2, CD 1
 H.B. No. 1808, HD 3, SD 1, CD 1
 H.B. No. 347, HD 2, SD 2, CD 1

Representative Thielen rose and stated:

"Yes Mr. Speaker, may we have permission to put remarks into the Journal?"

At this time, the Chair stated:

"I was just going to remind the Members. Members, please remember to let the Clerk know which House and Senate Bills on the Consent Calendar you'll be inserting written comments for the Journal. This must be done before the adjournment of today's Floor session."

ORDINARY CALENDAR

UNFINISHED BUSINESS

Conf. Com. Rep. No. 7-10 and H.B. No. 2376, HD 3, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2376, HD 3, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I want to speak in strong support of this, Mr. Speaker. Again, this Session seems to be about Furlough Fridays, but it helped us to talk more seriously about a more important issue and that is the leadership structure of the Department of Education. It has been very frustrating as a legislator who came in to reform education to see and discover and to find out that I'm not really in charge of education.

"I am sort of, but there's also a Board of Education, as well as the Governor. So I'm hopeful that this amendment that would help to appoint the Board of Education underneath the Governor with the Senate's consent, that we'll have a stronger hold on decision making and we'll no longer have our children and the future of education being pulled in so many different directions.

"Of course there's so much more that we should do and we can do to reform education and I'm hopeful that we will do more in following Sessions."

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

"Mr. Speaker, may I have a ruling on a conflict. My daughter works for the Board of Education. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I speak against the measure. I'm opposed to this. I'm not opposed to the public being able to vote. I think they have every right to vote on the measure. However, I'm opposed to the measure."

At 12:55 o'clock p.m. Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:56 o'clock p.m.

Representative Souki continued, stating:

"Mr. Speaker, I forgot what I was going to say with this interruption. But anyway Mr. Speaker, going back to my opposition to the measure. It's simply that I don't believe that the Board of Education should be turned over to one person, the new Governor, whoever the Governor is, I don't think it is going to improve the lot of the education system. In fact I think it's probably going to make it even worse than it is right now.

"To give the power to one person to make the major decision for education is taking a terrible risk. We know that past Governors, we've had good Governors, bad Governors, with different styles of governing. And I don't believe that given the method of appointment, that you'll have a Board that is going to be theoretically independent. The final power is still with the Governor. The Governor that we have now is the most powerful Governor in the whole nation. She has more responsibilities, more powers than any other governor in the nation right now. We're adding another piece of power to the Governor and I think it's too much for one person.

"I believe that what we need is to look at the structure of the Board, increase the size of the Board, and make it more accountable to smaller districts. Each Neighbor Island will have their own member. Here in Honolulu if you have five school districts, you would have five Board members. I think the accountability will be much better that way. They are elected. They're accountable to the public rather than you have one person ending up making the calls. And that's how it's going to happen, that one

person will be making the call. Just look in your heart at the power that the Governor already has. You're just going to add to it. Thank you very much."

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

"Thank you, Mr. Speaker. In opposition. And may I have the words of the previous speaker entered in the record as if they were my own, and just a brief comment. I know one of the reasons behind this is people say, 'Well, just look at the Board of Education. All the blank votes. Nobody knows who their Board of Education member is.' But Mr. Speaker, I would propose to everyone, that there's probably a lot of our electorate that don't know who their State Senator or State Representative is. We have one of the lowest voter turnouts in the country and so therefore we should probably just abolish everything and make the Governor king and/or queen of the entire State. Thank you, very much."

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

"I support the last two speakers in opposition. It's just as he's saying. We already have a very powerful Governor and giving them more doesn't really make sense. You're taking it away from the people. Even if they're not voting right now, it is still their choice. They still get to vote for their school board. So I speak very strongly against this."

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

"Thank you, Mr. Speaker. I'm completely changing my vote from being no, to being yes on this measure from the previous versions or previous votes on the Floor. Mr. Speaker, the reason why I changed my vote is because as I was going along the process and seeing that we do need some kind of change, and if this is the compromise bill that we're going to move forward with, then I will jump on board and support this bill."

"The reason why I was strongly against this bill prior was for the opposite reason from what the Representative from Wailuku was mentioning. Right now, I believe that the Department of Education and the Board of Education is almost in and of itself, a separate branch of government. Being under the Governor, and what I would have preferred is having the Board selected by the Governor with no Selection Advisory Council, or having the Governor appoint the Superintendent so that there is direct accountability."

"Mr. Speaker, accountability is key here. I will be voting on the other measure that gives the Selection Advisory Council, I will be voting no on that bill because I think it gets very murky and there is no accountability. For instance Mr. Speaker, the bill that has the Selection Advisory Council speaks of how other people are going to forward those names. A group of people are going to forward those names over to the Governor. That currently happens with the Board of Regents. And it's interesting enough that some of the comments that were received by the Governor was that she's not appointing enough women onto that Board. But that's mainly because not enough women are being passed through this Advisory Council of the Board of Regents."

Representative Takumi rose to a point of order, stating:

"Point of order, Mr. Speaker. The speaker is not talking about the underlying measure. This is only about the question that will be on the ballot."

Representative Finnegan continued, stating:

"Mr. Speaker, I understand why I was interrupted, because I was speaking on another bill. But these bills are so closely related that I would hope that you would allow me the opportunity to speak on both because they do go hand in hand."

Speaker Say: "The Chair will allow you to continue if you don't speak on the other measure."

Representative Finnegan continued, stating:

"Thank you. I'm almost done, then. Mr. Speaker, so what happens is again, you cannot fault the Governor for making those choices. Just like in this bill and the other bill, it doesn't have that direct accountability. And like I said, I will compromise because it is change. I don't know if it's change for the sake of change, but I will support it. And hopefully what we can do in the future and if the other bill is not supported and does die, then we can correct it so that there is true, direct accountability for our education status in this State. Thank you."

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

"Thank you very much, Mr. Speaker. In support. Ultimately I guess, it will be up to the voters to decide whether or not they want the Board to go in this direction. So whatever we might say in this Chamber today, while important, ultimately the real test is going to be when the voters get to decide which way they want to go."

"I'd like to respond to the speaker from Maui regarding the power of the Governor. As we all know, 39 states already elect judges. In our State the Governor gets to appoint judges. We might want to think about introducing a bill to have judges up for election as they do in most states in the country. And again, this appointed Board is really taking it out of the model that the Board of Regents has. They're appointed as well under the same process. That is a huge budget driver in our system, the University of Hawaii. Yet, no one is proposing that we elect the Board of Regents as well. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support of the measure. Mr. Speaker, nobody likes change. Status quo is always better, you're more comfortable. Having worked in community development for so many years overseas, I know that change is disconcerting. It makes people nervous. It makes people uncertain. But after four Governors, Mr. Speaker, have said this is the way to go, you know we're not making this up."

"We need to change. It's long overdue. And even the speaker from Maui who said he's against this change stood up last week and argued that the sale of ice cream and candy belongs at the Board level. Why are they putting it up at this level? They're not doing their job. Well, I think that may be symptomatic of what's happened to education and why we are one of the last in the nation to achieve what we know we can achieve."

"A nation, a country, a state, a district, thrives on the basis of its human resource. Japan has no resources other than its people. And the education of its people is paramount. Until we get it fixed Mr. Speaker, we've got to keep pushing the envelope. We've got to keep changing. I think we all believe in democracy. Well the great thing about democracy is it's self-correcting. When we don't get it right, we change it. And Mr. Speaker, this is going to ask the people, 'Do you want to change? Or do you want the status quo?' And I think regardless of what some of us fear, change is going to be the best we can do for our *keiki*. 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. 2376, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE BOARD OF EDUCATION," passed Final Reading by a vote of 44 ayes to 7 noes, with Representatives Bertram, Carroll, Chang, McKelvey, Rhoads, Souki and Tokioka voting no.

H.B. No. 2376, HD 3, SD 2, CD 1 passed Final Reading in the following form:

H.B. No. 2376, HD 3, SD 2, CD 1

A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE BOARD OF EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Article X, section 2, of the Hawaii Constitution is amended to read as follows:

"BOARD OF EDUCATION"

~~Section 2. There shall be a board of education [composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education]. The governor shall nominate and, by and with the advice and consent of the senate, appoint the members of the board of education, as provided by law."~~

SECTION 2. Article XVIII of the Hawaii Constitution is amended by adding a new section to be appropriately designated and to read as follows:

"BOARD OF EDUCATION TRANSITION"

Section . . . There shall be a period of transition from the elected to the appointed board of education, as provided by law."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the Board of Education be changed to a board appointed by the Governor, with the advice and consent of the Senate, as provided by law?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. These amendments shall take effect upon compliance with article XVII, section 3, of the Hawaii Constitution.

Conf. Com. Rep. No. 54-10 and S.B. No. 2807, 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. 2807, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE TAX REBATE REQUIREMENT," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

S.B. No. 2807, SD 2, HD 2, CD 1 passed Final Reading in the following form:

S.B. No. 2807, SD 2, HD 2, CD 1

A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE TAX REBATE REQUIREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to propose an amendment to article VII, section 6, of the Hawaii Constitution to amend the requirement that excess general fund revenues be returned to taxpayers of the State as a tax refund or tax credit and allow the legislature to deposit these excess revenues into one or more funds, as provided by law, to serve as temporary sources of funding for the State in times of an emergency, economic downturn, or unforeseen reduction in revenue.

SECTION 2. Article VII, section 6, of the Hawaii Constitution is amended to read as follows:

"DISPOSITION OF EXCESS REVENUES"

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, or make a deposit into one or more funds, as provided by law, which shall serve as temporary supplemental sources of funding for the State in times of an emergency, economic downturn, or unforeseen reduction in revenue, as provided by law."

SECTION 3. The question printed on the ballot shall be as follows:

"Shall the legislature be provided with the choice, when the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years, to provide a tax refund or tax credit to the taxpayers of the State, or to make a deposit into one or more funds, as provided by law, which shall serve as temporary supplemental sources of funding for the State in times of an emergency, economic downturn, or unforeseen reduction in revenue?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Hawaii Constitution.

At 1:07 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2376, HD 3, SD 2, CD 1
S.B. No. 2807, SD 2, HD 2, CD 1

At 1:08 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 1:09 o'clock p.m.

At this time, the Chair stated:

"Members, at this time we are on page 13, and for Conference Committee Report No. 52-10, Senate Bill 2405, Senate Draft 2, House Draft 1, Conference Draft 1, this will be deferred until the end of calendar of today."

Conf. Com. Rep. No. 52-10 and S.B. No. 2405, SD 2, HD 1, CD 1:

By unanimous consent, action was deferred to the end of the calendar.

Conf. Com. Rep. No. 10-10 and H.B. No. 2631, 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. 2631, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY INDUSTRY REPORTING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 16-10 and H.B. No. 2239, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2239, SD 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. In opposition. Thank you, Mr. Speaker. The purpose of this measure is to remove the exemption of dietary supplement beverage containers from the Deposit Beverage Fund. Mr. Speaker, when

this original Fund was set up, I did vote against it. In actuality when I was looking at what this does, it puts on par both the energy drinks, equivalent, so you can collect the one cent tax, and the five cent deposit fee for these energy drinks. That doesn't sound so bad actually.

"But let me just tell you a quick little story. My dad and my son are currently saving cans, and what they do is they go and redeem them. And just for good measure, my dad did the hundred cans per bag. He rinsed them out and he did all of this work prior to going down there. And my son is learning a really good lesson on the environment and recycling and earning money by doing this recycling.

"The problem that I face is when we did the hundred cans, basically what you ended up with when doing the calculations of weighing or even using the machine, more so weighing if you want to get it done a little bit easier and faster, is that you really only get like two-thirds of your money back of the five cents per bottle or can. So in actuality sometimes you may end up, if you're paying six cents per bottle or can, you're really only getting back of that maybe half, or a little more than half.

"Mr. Speaker, that ends up being what I call a tax to run this program and it's not necessarily the five cent deposit. Mr. Speaker, what also happens later on in our agenda is that we're raiding a million dollars from this Fund. So it's the worry that we've always had from the beginning of establishing this Fund, that when this Fund does have money we will take it and we will consider it now not a deposit, but a tax.

"Mr. Speaker, even though I don't believe that we should discriminate between the different kinds of bottles and cans, I must stand firm in just this kind of mechanism that allows us to tax, call it a deposit, and then suck out more money from the people of Hawaii. Thank you."

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

"Thank you, Mr. Speaker. I will be voting for this measure. In support, because of the fairness aspect of it. I have seen it through its different Committees. But I couldn't agree more with the House Minority Leader that this has turned into the tax that we always said it shouldn't have been. So to me, the truth is that it is a tax, but for fairness purposes I will support it. And I ask that the words of the Minority Leader be entered as my own."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I just want to clarify a point made by the Minority Leader. If you bring in your bottles, you may request a count as long as it is under 200 or less. At that point it will not be weighed. You will get five cents back for each bottle. So as long as it's 200 or less, you will get five cents. That's the incentive many people in my district use, knowing that it could be weighed. But I personally do that too, to ensure that I get the five cents. So just a point of clarification. Thank you, Mr. Speaker."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Just a short rebuttal. Not all of us have the time to go, and for us how granddad does it with my son, we don't go every week and we could. We do wait until we can do it all at once. So it's not that you can do it by 200 cans or less, but that's the way that we chose to do it. And we choose to do it all at once. Yes, it's probably more than most people will do at one time, but nonetheless it's not as easy as you think it is. It's a lot of work to get back that five cents if you do decide to do that. A lot of standing at a machine for hours at a time. We had four of us going through bags. It took us two hours for the four of us with the machines and how they work. This is no easy feat trying to go in and collect your five cents per bottle or can. 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. 2239, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Brower and Finnegan voting no.

Conf. Com. Rep. No. 17-10 and H.B. No. 2266, 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. 2266, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 18-10 and H.B. No. 1987, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1987, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I am in favor of this particular measure. I suppose it is a step forward to establish a nuisance action under the Penal Code to retard the use of illegal fireworks. Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense of illegal fireworks activity, and even facilitating or assisting such activity should be subject to forfeiture.

"There are those who fire off illegal items such as ice bombs or aerials every year. Frequently neighboring home owners suffer from noise, fumes, injuries and danger of fire. Previously, members of the Minority Caucus have complained that it is unlikely and very expensive to pursue a lawsuit against a neighbor who you have to live with. Therefore this law will probably not produce the desired effect of mitigating the noxious, noisy and dangerous New Year's Eve and Fourth of July fireworks in every neighborhood in Hawaii.

"But on the other hand there are others who are importers, wholesalers, retailers who store volatile fireworks in unsafe places or conditions. Those who deal in illegal items, and those who endanger others should be the main target of this legislation. I'm very happy about the use of this forfeiture penalty, and the loss of property may be a much stronger disincentive to buy, sell, store or use illegal fireworks. I had hoped for a statewide ban, but I urge an 'aye' vote on this measure and I hope it works. Thank you."

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

"Mr. Speaker, in support with just a little reservation that we can consider for our next Session. Although this bill allows for the courts to issue orders to protect witnesses who are entitled to the same rights and protections of victims and witnesses in criminal proceedings, their identities are not withheld from the defendants, or there's no guarantee. In other words Mr. Speaker, there is no anonymity clause in this bill, which leaves the witness open to retribution or harassment. There are many good citizens out there that are reporting crimes. But here's how we can make the bill better next time as we readdress this issue.

"Crime Stoppers, for example, has a great system that has stopped a lot of crime. They allow private citizens to turn in individuals who are allegedly doing various types of crime without their names being exposed. Crime Stoppers allows for the investigation and arrest of offenders through the use of many, many, many anonymous tips, which allows a caller to give information in a positive atmosphere without the prospect of retribution.

"Again, I strongly support this bill. I just think that we can make it better in the future. One of the problems that I had in my community is we had a very high illegal fireworks rate, but many were afraid of retribution. While many did start stepping up and reporting the crime, there were still those in a particular ethnic population that were very fearful that they would have retribution against them.

"One great aspect about Crime Stoppers here in Honolulu is that the programs make a difference in creating safer communities. Their success is mostly due to the fact that the tipster can work very closely with the police during the period of time of the investigation. I want to thank the

introducers of this bill. Of course many wanted a complete ban, but I think this at least is a great step in the right direction."

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

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

"Mr. Speaker, in support. With brief comments to say that a good bill with a flaw in it means we're going to have to come back and deal with it again next year. The issue of retribution is a real one. Mr. Speaker, the subculture here is that we don't even honk the horn when somebody is sitting in front of us and the light turns green. We just wait for them to leave. How many times have you heard the horn honk for somebody doing something? So to be able to turn in somebody who's doing fireworks down the street or next door is not very probable. We've got to be practical. We've got to be real. We've got to do something about this, but this bill is going to be more of a gesture than a substantive solution."

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

"Mr. Speaker, I stand in strong support. Just to clarify, on page 5 of the Conference Draft there is a reference to make sure that citizens who participate in the prosecution of this measure will be protected under the current Chapter 801D, which is entitled 'Rights of victims and witnesses in criminal proceedings.' This is a law that was enacted to make sure that those who come forward, subpoenaed or voluntary, to help in the prosecution of criminal cases are protected. I want to make sure that everyone knows that Chapter 801D, subsection 3, they will receive protection from threats or harm under the current statute. I'd like to also ask for permission to insert written comments. Thank you."

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

"Mr. Speaker, I rise in support of House Bill 1987 Conference Draft 1. The purpose of this measure is to strengthen illegal fireworks law in Hawaii by allowing the same strategical and civil legal sanctions cited to fight illegal drugs to be used for illegal fireworks. As such, it allows for the forfeiture of any property used or intended for use and any proceeds or other property acquired or maintained with the proceeds from the commission of, attempt to commit, or conspiracy to commit an illegal fireworks offense. It also makes the importation of fireworks labeled or designated as samples, even if not intended for retail sale, illegal.

"Mr. Speaker, the excessive and concussive noise caused by illegal fireworks disrupts the entire State, and illegal fireworks, like military munitions, can be as lethal and dangerous. The war zone like conditions fireworks create with their smoke, debris, and noise prevent people from peaceful enjoyment of their property. Animal owners are also affected by the illegal fireworks; the sounds often scare pets and force owners to keep them indoors and/or use prescription strength tranquilizers. Also, illegal fireworks pose a danger to the safety of the people of Hawaii, especially children. Between December 31 through January 2, 2010, 112 people were injured by fireworks and 7 were admitted to the hospital. These numbers only account for reported injuries. Furthermore, fireworks cause numerous fires destroying property, homes, and lives.

"A lack of enforcement of the current fireworks laws have allowed for the rise of a lucrative black market for illegal fireworks in the past few years. The difficulty of enforcing current laws has further bred a very profitable industry of importing and selling illegal fireworks. The harsher fines created by this measure will deter illegal fireworks importers, sellers, and possessors from carrying out future illegal activities and hopefully reduce the number of illegal fireworks set off during the holidays.

"By making sanctions to combat illegal fireworks identical to those that fight illegal drugs, this measure may make it easier to bring violators of our State fireworks law to court; with this measure it will now be considered a nuisance to import, transfer or sell aerial devices, display fireworks, or articles pyrotechnics without a valid license. With these

changes, offenders can now be brought to court in criminal cases by the State or in civil cases by private citizens. As an additional deterrent, this measure will allow assets that were used or that assisted in the commission of, attempt to commit, or conspiracy to commit these offenses are subject to forfeiture.

"The amendments made through this measure now make it easier for regular citizens to report illegal fireworks activity and for law enforcement to act upon this information. For example, if a private citizen suspects that a neighbor is importing, transporting or selling illegal fireworks they can report this information to the police. The police will then investigate the nuisance, and if evidence of the allegation is found the State may, in the citizen's own name, maintain a suit to abate and prevent the illegal fireworks activity. Additionally, the private citizen can bring a civil nuisance suit against their neighbor to further prevent the illegal fireworks from being imported, transported or sold. People can now take a firmer stand and show their neighbors who are conducting this illegal activity that they are serious and will no longer tolerate such harmful activities.

"Additionally Mr. Speaker, this measure may create a secondary benefit to the people of the State. The recent increase in volcanic activity and vog has compounded the airborne danger of fireworks. Hawaii has the second highest rate in the nation for childhood asthma and many adults, especially the elderly, suffer from chronic lung disease including emphysema and COPD (Chronic Obstructive Pulmonary Disease). Even those who do not have medically diagnosed lung problems often report eye, throat and lung irritation on New Year's Eve and other holidays where fireworks are allowed. It is hoped that this measure will also help to assure the cleanest air for everyone in Hawaii.

"For these reasons, Mr. Speaker, I support this measure."

Representative Pine rose to respond, stating:

"Just a slight rebuttal, but still in strong support. I don't want to ruin things. But basically a judge would have to make a specific ruling for all that protection. All I'm saying is that if we can in the future just model it after the Crime Stoppers program, I think it would be better for all of us."

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

"Mr. Speaker, in strong support and I'll insert written comments. Thank you."

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

"I rise in support of HB1987, HD2, SD2, CD1. This bill addresses the illegal importation, sale and transfer of fireworks through the State's nuisance abatement laws; establishing nuisance abatement and forfeiture actions to discourage these illegal activities.

"I believe this bill provides an incentive for those who might consider storing or exploding illegal fireworks to think twice before doing so. The property on which this occurs could be at risk of forfeiture.

"I commend the Chair of Finance for his introduction of this tough bill and ask the Members' support. This is another step in our efforts to achieve a state-wide ban."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1987, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 20-10 and H.B. No. 2289, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2289, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Takai 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 is the gift certificate bill. Members, if you didn't take a look at this, I would like to point out that we are now in fact allowing for activation or issuance fees up to 10% of the face value, or \$5, whichever is less.

"I've said it many times in the past, I don't think we need to be supporting issuance fees or any fees for that matter for these gift certificates. I do understand that Congress passed the Credit Card Act of 2009 and one of the things that it requires is that these cards now be effective for no less than five years. I agree with that. I don't think we have to pass a measure to meet with federal law. Federal law trumps state law in this case, so all these cards will be expiring in five years.

"The other thing that troubles me is that although we have made changes to the credit card types of gift certificates, we have not made it for the paper types. So we have changed the credit card types to five years, and we have not changed the paper types to five years. We in fact keep it at two. This will create confusion in the marketplace. And I just caution us as we move along in this way. I don't think we need to do this, and therefore I'm voting against it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2289, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GIFT CERTIFICATES," passed Final Reading by a vote of 45 ayes to 6 noes, with Representatives Belatti, Berg, Hanohano, C. Lee, Morita and Takai voting no.

Conf. Com. Rep. No. 24-10 and H.B. No. 2595, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2595, HD 1, SD 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 job killer number 16. Recall that we only had 15 prior to this and this is about the GET tax, and I have two particular concerns about this bill.

"First is that a nonprofit must prove that it's a nonprofit, otherwise it gets taxed. I think that's an unnecessary hoop and hurdle that we're going to put our nonprofits through.

"Secondly, this has the elevation of the GET tax to the sacrosanct trust fund status as an employee's withholding tax would be. Which means if you're a struggling business or family and you go bankrupt, that means you have to pay forever and ever the GET tax now. So it really changes the whole notion of a small business going under and having a fresh start and going over again.

"The point is that we have empowered the Department of Taxation the same way that the nation has empowered the Homeland Security. DoTAX is becoming more draconian year by year, Mr. Speaker, and when it comes and says, 'You nonprofit show me, and prove to me that you're a nonprofit,' and remember your GET tax is forever and ever. I think we're getting a little bit too strongly, and why are we doing it now? Well, it's because 'big brother' is grabbing the wallets of the people of this State thoroughly and more aggressively than ever before. Is this a good precedent? I don't think so, Mr. Speaker. Thank you."

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

"Mr. Speaker, in support. This is part of our financial plan, and also an Administration bill."

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

"Thank you, Mr. Speaker. With some reservations. Thank you, Mr. Speaker. The purpose of this bill is to strengthen and bring fairness to the general excise tax system, and then it lists all the different ways. Part of

my reservation is just that at one point in time, this bill, the Conference Draft, actually removed the periodic reviews of housing projects for which a claimant received a GET exemption. That's basically making sure that those who receive the GET exemption check to make sure that the low income are actually low income, because they're receiving a tax break. Mr. Speaker, that's no longer in the bill, and I was hoping that we could be a little bit more fair with those credits or these exemptions.

"The second thing is, although I do have some concerns that the previous speaker from Hawaii Kai has, my reason for supporting the bill is because this is money, especially in some of the sections of these bills, this is money that was collected from taxpayers that was meant for taxes, for paying those taxes. I think it's unfair, that they use that as a means of income. Thank you."

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

"Mr. Speaker, I rise in support. Very briefly, just as a summary, this measure modifies the general excise tax law by simply disallowing a general excise tax benefit, i.e. a reduced rate deduction splitting etc. unless and until the taxpayer first registers their business in Hawaii.

"Number two, files a timely return. And number three, claims the benefit expressly on the proper return forms. This is mainly intended to capture the cash economy loss that basically forces all of the taxpaying public, especially to the small business public, from subsidizing those businesses and individuals who do not pay their proper share of the tax. This measure also shows the general excise collections by creating trust fund liability for those that collect tax payer receipts.

"The fiscal impact to the general fund is as follows Mr. Speaker. For fiscal year '11, \$15 million, for fiscal year '12, '13, '14 and '15, \$30 million a year. 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. 2595, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Final Reading by a vote of 48 ayes to 3 noes, with Representatives Marumoto, McKelvey and Ward voting no.

At 1:31 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2631, HD 2, SD 2, CD 1
H.B. No. 2239, SD 2, CD 1
H.B. No. 2266, HD 1, SD 1, CD 1
H.B. No. 1987, HD 2, SD 2, CD 1
H.B. No. 2289, HD 2, SD 1, CD 1
H.B. No. 2595, HD 1, SD 2, CD 1

At this time, the Chair stated:

"Members of the House, at this time we will take a 50 minute recess and we will reconvene at 2:20 p.m. to finish up the next nine pages on our Order of the Day. Recess until 2:20."

At 1:31 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:32 o'clock p.m., with Vice Speaker Magaoy presiding.

Conf. Com. Rep. No. 25-10 and H.B. No. 1818, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1818, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Just with some reservations. Basically what this bill does for the Department of Public Safety, it asks them to use cognitive behavioral theory with cultural and other interventions.

"My only concern is, I come from a very diverse family of all different races and cultures that come from all over the world. I'm just concerned about that one moment when you have that situation with a prison population where the cultures start to clash, and you question which is the right cultural practice to use. I'm concerned about future conflict that may occur because of this piece of legislation.

"But I do understand the intent, and the intent is to perhaps deal with the prison population in ways that perhaps the normal practices that we use to deal with the prison population do not work, but the cultural one does. So I think we should just tread very carefully as we move forward with these types of new practices."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1818, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COGNITIVE RESTRUCTURING," passed Final Reading by a vote of 50 ayes, with Representative Carroll being excused.

Conf. Com. Rep. No. 29-10 and H.B. No. 2831, 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. 2831, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Final Reading by a vote of 50 ayes, with Representative Carroll being excused.

Conf. Com. Rep. No. 30-10 and H.B. No. 1978, 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. 1978, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Rhoads voting no, and with Representative Carroll being excused.

Conf. Com. Rep. No. 35-10 and H.B. No. 2688, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2688, HD 1, SD 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. In opposition and short comments, please. Mr. Speaker, going through and balancing the budget and realizing that almost half, I believe, I can't remember what the percentage is, but much of our expenses are in special funds. I know that the first paragraph in section one of this bill says that this is not to provide just the program or users with an automatic stream of support that is removed from the normal budget and appropriations process. But we have so many funds and expenditures that actually go through that, that are outside of the budget process. So my concerns are with that, and the reason why I even voted on an earlier Administration bill that started a new special fund, I did vote in opposition of that one as well. 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 in support of HB 2688 Conference Draft 1. The purpose of this bill is to make the Department of Health's Sanitation Branch more efficient and to improve the quality of life of the people of Hawaii. This bill changes the name of the Environmental Health Education Fund to the Sanitation and Environmental Health Special Fund.

Through this bill, the monies in this fund are authorized to be expended on the operating costs of program activities and functions to enhance the capacity of sanitation and environmental health programs. In order to better fund the Department, the threshold for excess funds to be deposited from the fund into the general fund is increased from \$300,000 to \$1,500,000. Additionally, this bill increases the yearly amount allotted for administrative expenses from \$90,000 to \$140,000.

"Underfunding the Sanitation Branch puts the health and safety of Hawaii at risk. As of January 2010 there were approximately 5,860 permitted food establishments on Oahu. Currently Oahu has 9 field sanitarian positions that are filled and 2 vacancies that remain unapproved for filling. That means the ratio of sanitation inspectors to food establishments on Oahu is 1:651. This ratio is much higher than the U.S. Food and Drug Administration's benchmark staffing levels, which is a ratio of 1:150. Oahu inspectors are responsible for inspecting 501 more food establishments than what is currently recommended by the federal government. The lack of adequate numbers of inspectors is alarming as it results in food establishments being inspected about once every 2.5 years. A lot of things could change in two and a half years, Mr. Speaker.

"This measure looks to address the staffing levels. DOH estimates that the Environmental Health Education Fund would retain about \$300,000 to \$450,000 per year that has previously gone to the general fund. This increase in funding available to the Sanitation Branch would provide for better staffing and provide meaningful and lasting compliance with food safety and sanitation rules. The funds will be used to establish an electronic web-based inspection and permitting process and new food safety systems that include a placard system to notify diners of recent food inspection status, and food safety education.

"It was estimated that the programs and staff positions created by the additional funding would raise approximately \$1,500,000 to \$1,800,000 through increases in existing user fees charged for DOH Food Establishment Permits. The cost to the general public per meal due to the increase will be less than 1 cent per meal. With a cap at \$1,500,000 the State will raise the fees to an average of \$200/year x ~9000 = \$1,800,000. Food establishments on the West and East Coast of the U.S. pay restaurant permit fees that average \$1,000 or more annually to support their food safety programs.

"Mr. Speaker, the Sanitation Branch is a critical component in any rapid response to environmental emergencies and all hazard disaster relief and assistance mainly to ensure a safe food and water supply and to ensure sanitary temporary shelter environments. The division also promotes a sanitary and healthful environment for the people and visitors of Hawaii. The monies allocated and generated through this measure will be used to fund more inspector positions and increase proper sanitation procedures throughout our communities. Continued inadequate funding of core services provided by the Sanitation Branch has recently resulted in adverse media exposure due to rats in Chinatown that devastated commerce in that district, as well as the recent closing of a popular Korean BBQ restaurant due to an E. coli outbreak that sent an 8 year old and a 72 year old to the hospital whom has still not been released since early March and may not be doing well due to Hemolytic Uremic Syndrome – organ failure due to the E. coli infection. The restaurant is also suffering economically due to a 90% drop in business. Both of these situations were totally preventable if the Sanitation Branch had proper staffing levels and were inspecting these food establishments at a frequency necessary (3 to 4 times per year) to produce lasting compliance with food safety regulations.

"We are at the point where the food industry in Hawaii is at great risk of another large media event due to illnesses or infestations. Think of the field day the media would have if this happened in Waikiki or Lahaina and how it may ruin the reputation of Hawaii's travel industry where we constantly sell our island cuisine to the rest of the world. This is not the time to be 'penny wise and pound foolish' when we have a solution at hand to lay the foundation for a world class food safety program that does not tap general funds and requires a miniscule increase in restaurant permit fees. Safe, adequate, and efficient sanitation regulation is important to our State, and 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. 2688, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Finnegan voting no, and with Representative Carroll being excused.

Conf. Com. Rep. No. 36-10 and H.B. No. 2450, 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. 2450, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Final Reading by a vote of 50 ayes, with Representative Carroll being excused.

Conf. Com. Rep. No. 39-10 and H.B. No. 2397, HD 1, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and H.B. No. 2397, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIMARY ELECTIONS," passed Final Reading by a vote of 50 ayes, with Representative Carroll being excused.

Conf. Com. Rep. No. 40-10 and H.B. No. 1212, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1212, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative C. Lee rose and asked that the Clerk record an aye vote with reservations 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 HB 1212, CD1. Throughout the history of this bill, lawmakers have tried to balance privacy interests of affected licensees against the public's interest in disclosure so that individuals can make informed decisions about whether to hire licensees for regulated services, including many critical health-related services. Despite the problems and concerns of licensees, the testimony of the Department of Commerce and Consumer Affairs (DCCA) highlights the demand with which the public desires this information with over 450,855 viewings of the complaints history database in fiscal year 2008.

"The DCCA also explains that their reporting endeavors to be a neutral repository of information that provides only specific, limited information and that the public is urged to focus on the outcome of investigations rather than on the simple fact that a complaint was filed or the number of complaints that were filed. Although a balance can probably be struck between the competing interests of individual licensees and the public-at-large, this bill does not strike that proper balance and weighs too heavily against the public's interest in disclosure."

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

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

Representative Ching rose in support of the measure with reservations and asked that 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 with reservations on H.B. 1212, which would remove records of complaints from the exceptions to the types of information that are not subject to disclosure as public documents.

"While I support this measure, my reservations are consistent with those cited in the written testimony provided by the State Office of Information

Practices: "The bill signifies a major policy shift in the accessibility of licensee complaint information that the public has come to rely on. While it is, of course, the Legislature's call as to whether to make the policy shift called for in this bill, it is highly questionable as to how this bill would serve anyone other than the few licensees who want to hide their complaint records from the public's view." Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1212, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Final Reading by a vote of 43 ayes to 7 noes, with Representatives Belatti, Berg, Hanohano, Luke, Marumoto, Morita and Takumi voting no, and with Representative Carroll being excused.

At 2:40 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 1818, HD 2, SD 2, CD 1
 H.B. No. 2831, HD 2, SD 2, CD 1
 H.B. No. 1978, HD 2, SD 2, CD 1
 H.B. No. 2688, HD 1, SD 2, CD 1
 H.B. No. 2450, HD 1, SD 2, CD 1
 H.B. No. 2397, HD 1, SD 1, CD 1
 H.B. No. 1212, HD 1, SD 1, CD 1

LATE INTRODUCTIONS

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

Representative Marumoto introduced attorney Mr. Marvin Dang and his staff, Ms. Jana Walden; Mr. Gary Nishikawa, CPA with Deloitte Touche; and Ms. Linda McKenzie of Ernst & Young.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Conf. Com. Rep. No. 41-10 and H.B. No. 2644, 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. 2644, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 42-10 and H.B. No. 1665, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1665, HD 1, SD 2, 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 in support of HB 1665, Conference Draft 1, Relating to Hawaiian Fishponds. This bill prohibits the sale of public lands on which government-owned Hawaiian fishponds are located.

"Before I begin to explain the reasons why I support this bill, I'd like to thank Mr. Chris Kramer and Mr. Tony Costa for bringing this issue to my attention these past two years. It is their profound dedication and grassroots efforts that helped in the passage of this legislation and the preservation of the few remaining Hawaiian fishponds. As the famous American anthropologist, Margaret Mead, once said, "Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it's the only thing that ever has."

"Mr. Speaker, one of the Hawaiians' greatest engineering innovations was their use of aquaculture, namely stone and coral fishponds. Ancient Hawaiian fishponds are amazing aquaculture structures found throughout the islands that played a prominent role in the prehistory of our State. Fishponds were part of the Hawaiian *ahupua'a* (land division) system of sustainable management of land and water resources for the benefit of society. This locally-developed technology was tremendously productive for the ancient Hawaiians and it can be productive for the State once again.

"The historical importance of Hawaiian fishponds can be found throughout ancient Hawaiian folklore. This bill would aid to preserve some of the few remaining fishponds located in O'ahu, especially the Paiko fishpond, which is the last remaining fishpond in Kuli'ou'ou of the East Honolulu area. It is at Kuli'ou'ou where the goddess Hi'iaka and her party reached after passing through Waialae, Wailupe, and Niu, they came upon some women who were catching small fish and crabs in the pools and shallow water along the shore (<http://apdl.kcc.hawaii.edu/~oahu/stories/koolaupoko/makapuu.htm>).

"Paiko Lagoon, formerly a coastal fishpond, is fed by a freshwater springs and Kuli'ou'ou Stream. The lagoon's water level varies with the tides and occasionally exposes the saline mudflats. Today *aholehole* and mullet flourish living in Kanewai Pond located behind Paiko Lagoon in Kuli'ou'ou, where ancient *konohiki* rights were still in effect until the time of Statehood. While this pond is currently closed to the public, if properly restored it could play a significant role in renewing the fish and *limu* of the surrounding bay.

"Protecting our State's last remaining fishponds is an integral part of Hawaii's history. The passing of this measure would ensure better protection of valuable architecture and serve as a model for future sustainability. Mr. Speaker, for the reasons cited above, and with great aloha for the community activism of Mr. Kramer and Mr. Costa, I cast my vote 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. 1665, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN FISHPONDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 45-10 and H.B. No. 415, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 415, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, in opposition. I do want to comment that I just adore the Chair of Public Safety, but I just differ on some of what we believe that we should be focusing on this session with the budget the way it is.

"What this bill does is it asks the Auditor to conduct a financial and management audit of the Department of Public Safety's contracts for prison beds and services outside of Hawaii and the Federal Detention Center in Honolulu. I notice in the budget that we allocate \$60,000 for this particular audit.

"First of all, my first concern is of course the fact that Public Safety does not have a contract with the Federal Detention Center. We have mentioned this over many times throughout the Session, but this is still in this bill unfortunately. The Department has rather, an intergovernmental agreement with the US Department of Justice Federal Bureau of Prisons, so that is very different then what we're asking the Auditor to do.

"Public Safety already conducts audits and its records are available online for all to review. In addition, this measure is redundant because the Department contracts with the Corrections Corporation of America, which includes the scopes and services, is and has been available also online for everyone to review.

"Out of all the Departments, this is the one Department that almost is required to have consistent audits by the federal government because of the

type of work that they do. In fact just this morning, Public Safety had one of its exit conferences with the State Auditor's Office relating to the Sheriff's Division.

"Each year Public Safety does a financial audit within its own Department by an independent auditor. I don't know any other department that does this. So here we are in this economy spending \$60,000 for an area in a department that is already auditing itself with an independent auditor and reporting these facts online for all to see.

"Just in the last ten years alone, and I'll try to be brief, there was a financial audit of the Department of Public Safety by the Auditor and a certified public accounting firm, Coopers and Lybrand. There's another audit reporting the revolving funds, trust funds, trust accounts and so forth, of all different departments which included the Department of Public Safety. Not long after that there was another financial audit of the Department of Public Safety within the same year. And just a few years later there was another financial audit of the Department of Public Safety. So I also have a whole page of audits within the Department that continues until this year.

"So I'm just really concerned that this Department is overly audited, Mr. Speaker. I'm always for audits, but when we are not spending \$60,000 for an audit of the Department of Education instead, which needs serious auditing, I just feel that our priorities are a little mixed up at this point."

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

"Mr. Speaker, I stand in support. The previous speaker spoke about previous audits, but I'd like to talk about what the purpose of the audit is because I think it's very timely and knowing the current Chair of Public Safety really wants to use this to launch off into some great, I believe, policy direction. Specifically in 2007, the Legislature passed the Community Safety Act which is requiring the Department of Public Safety to develop a comprehensive and effective offender reentry system plan.

"The reason I bring it up is if you look at what we want to accomplish in the audit, we're asking the Auditor to make a recommendation on whether continuing the housing of Hawaii inmates in mainland facilities and in the Federal Detention Center in Honolulu is advisable in view of the explicit requirements of that Community Safety Act of 2007 and its subsequent amendments.

"This is really, really critical Mr. Speaker, because we as policy makers changed the direction a couple of years ago on how we wanted reentry. We want to give people training and counseling in terms of being successful when they go home. So if they're on the mainland or in the Detention Center, are we achieving what us as policy makers want to achieve. So I think that's a good outcome for this audit.

"The second part of it is, on the Big Island, the Kulani Correctional Facility was closed and we had our sex offender program there. The sex offenders have come back into the system. What programs are being offered to sex offenders? I think it's really critical, again, the outcome of the audit is to address the closure of Kulani Correctional Facility as part of its analysis in conducting a comparison.

"The bottom line is, the Auditor is supposed to compare the quality of programming, cost and the economic benefit to our State with housing inmates in these facilities on the mainland or in a Detention Center, versus our facilities. So this is an evaluation of how good the Department of Public Safety is doing and where we need to put our prisoners to get the best results. Thank you, Mr. Speaker."

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

Representative Pine rose to respond, stating:

"Just in rebuttal. I just want to make it clear, I do support finding things out, getting answers to these questions as the Majority Floor Leader mentioned. I guess what I didn't make clear in the first part of my speech is all this can be found online.

"The contract that the Department of Public Safety has with the Corrections Corporation of America includes all of the scopes of these questions that we're asking. And the multiple audits that the Auditor has already done can help us to get these questions answered. The information is already there. So it goes back to my main point of why I'm against it. We're spending \$60,000 for audits to get information that we already have, and I just strongly believe that we should be using that \$60,000 in another area."

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

"In opposition. I wanted to ask that the words of the Representative from Ewa Beach be entered as my own, but I just wanted to ask the question: What are our priorities? We do have many priorities, but \$60,000, although some people may think that that's not a very large amount, is still \$60,000. And so, why should the priority come before the pressing needs of resources in such important areas as education, human services, and health? The fact is that the cost to house inmates on the mainland is almost half the cost to do so in Hawaii, and we cannot afford to bring them back. This audit will not change that. So that's the question that I wanted to ask. Thank you."

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

"Thank you, Mr. Speaker. In opposition and just short comments. Mr. Speaker, my main concern with this is the practicality of the measure and the practicality of when we bring prisoners home from the mainland, how do we deal with them?"

"I've been receiving more and more communications having to do with, 'It was better when I was in the mainland. We had cleaner facilities. We had more room. We had more programs.' So you have to compare both. Some people have not had good experiences in the mainland, and I think the goal is eventually to make sure that we have adequate facilities and programs so that we have reintegration here in Hawaii. That's where I think the goal is and that's what we'd like to work toward."

"Meanwhile, with the kind of financial constraints that we have and space constraints that we have, how do we operate effectively, as effective as we could be. I'm finding more and more communications coming in from inmates that said that they prefer to be on the mainland. And some people in the mainland that say that they're doing okay and well over there on the mainland. So we have to compare both in this time when we're struggling with making ends meet, Mr. Speaker. As we move forward, let's take a look at a long term vision for public safety and how do we get there. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 415, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Final Reading by a vote of 47 ayes to 4 noes, with Representatives Ching, Finnegan, Marumoto and Pine voting no.

Conf. Com. Rep. No. 46-10 and H.B. No. 2692, 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. 2692, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS PLANNING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 48-10 and H.B. No. 2157, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2157, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support of this measure. This measure will increase the capacity from two nursing level residents, to three in

Type I expanded adult residential care homes. The question is, is there a concern? Is there a need for a measure like this? And the short answer is, yes.

"According to the Health Care Association of Hawaii who provided testimony in February of this year, on any given day there are an average of 200 patients in Hawaii hospitals who have been treated so that they are well enough to be transferred to long-term care, but are waitlisted because long-term care is not available. These are waitlisted patients. What it means is that they're medically ready to leave. They were in acute-care bed space. They have been rehabilitated and they are ready to leave, but we don't have space for them, Mr. Speaker. This is part of the solution to that problem. In fact, Kaiser Permanente even stated that we can go as high as 275 waitlisted patients. These are for all hospitals in the State on any given day.

"What's the cost? In 2008 it was \$72.5 million in uncompensated care. Uncompensated healthcare, and not reimbursed to the hospitals. That's what the hospitals lost: \$72.5 million. It'll fluctuate from year to year, but that's the approximate cost per year because of our waitlisted patients. It is estimated that by year 2020, one in four of our residents in Hawaii will be aged 60 or older. This is what they're talking about when they use the term, 'silver tsunami.' Our population is growing faster than rest of the nation, Mr. Speaker. That's why it's important that we're very progressive in addressing senior care."

"Another example of cost for our elderly, and just a quick example. I want to give a simple snapshot which confirms elderly cost. In Hawaii on average, emergency room, hospitalization, rehabilitation and long-term care costs directly related to senior falls, just one example, senior falls, totals \$92 million annually. That's \$92 million which equals \$252,000 per day."

"Just two quick examples which total \$164 million annually for the State of Hawaii. This is part of the solution, by allowing expanded care, allowing another nursing level client to live in an adult residential care home."

"This measure will protect the health, safety, civil rights and the right of choice for our elderly who choose to live in a care home. This is more cost effective, especially during this time of fiscal crisis, residents in these Type I homes are provided with quality healthcare at affordable prices, which will run about \$2,500 to \$3,500 per month. This is compared to \$8,000 to \$10,000 per month at a private nursing home or institution."

"Are these Type I care homes regulated? Yes, they are regulated, Mr. Speaker. The Department of Health, the Office of Health Care Assurance, has authority and purview over these nursing homes. Also, each of the nursing level patients are followed by a personal case manager to provide oversight in their delivery of care."

"A question was brought up by one of our Members about the staffing ratio of nurses or certified nursing assistants to patients. At that point I didn't exactly have the answer. I had a question to HMSA and they gave me a memorandum that basically stated that pursuant to federal and State law, as long as you have sufficient numbers... What is 'sufficient numbers'? Your guess is as good as mine. Sufficient numbers that provide care for the residents."

"Hawaii Administrative Rules, under the Department of Health, is a lot more specific. Under Hawaii Administrative Rules 11-100.1-23, for each nursing level resident, there must be one caregiver. So it's a one to one ratio. It's a one to one ratio. What I'm trying to say Mr. Speaker is, if I have a Type I care home, I have up to five residents. If they're not wheelchair bound, they're not nursing level, I can have one caregiver to those five. The current law allows us to have two nursing level clients out of those five. You would have to have two."

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

Representative Mizuno continued, stating:

"I get the hint. It's real simple. I get it. Adult resident care homes, one to one care, if you're at an institution it could be one to ten, one to fifteen, even one to twenty if you're at the late shift from 11:00 p.m. to 7:00 a.m. For the following reasons, I support this measure and I think it'll benefit the elderly in the State of Hawaii. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I would like to submit written comments in strong support."

Representative Aquino's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in strong support of this measure. The purpose of this bill is to ensure adequate capacity and bed space for the provision of long-term care to persons with nursing facility level care needs by increasing capacity limitations from two, to three nursing facility level residents in Type I Expanded Adult Residential Care Homes. This bill will significantly increase the number of available beds and care for this area of service to our most frail and vulnerable in our communities, greatly assisting families and their loved ones who need nursing facility care. The fiscal savings to hospitals and assisted living facilities may be substantial. Thank you, very much."

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

"Mr. Speaker, I rise in support. Mr. Speaker, the only concern I would have in moving an additional skilled nursing level patient to a care home is that the staff was properly trained. It is true that persons at nursing home level may require less care, but they require skilled care nevertheless. There were some concerns from the community, but I think after what the Representative from Kalihi said, I feel fairly comfortable."

"But nurses and nurses aides who work in care homes need to have a fairly high skill level because these patients often require skin care, they require care to help feed them, they may have a feeding tube, etc., etc. So you want to make sure that they're going to get the adequate care."

"I understand the need for the hospitals to move on their waitlisted patients, but we want to move them on to a safe place where they get good care. Thank you."

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

"Thank you Mr. Speaker, in support. I just haven't had too many opportunities to support the Chair of Human Services so I wanted to let him know that I do support him on this bill. Thank you."

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

"Thank you very much Mr. Speaker, in support. May I adopt the voluminous comments of the Chair of Human Services as if they were my own."

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

"I have the same request as the prior two speakers."

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

"Mr. Speaker, I have the same request. 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. 2157, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXPANDED ADULT RESIDENTIAL CARE HOMES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 49-10 and H.B. No. 979, 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. 979, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 50-10 and H.B. No. 2084, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2084, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm standing in strong support and would like to submit written comments."

Representative Yamane's written remarks are as follows:

"Thank you, Mr. Speaker. The purpose of House Bill 2084 is to meet rising healthcare costs and ensure that Hawaii's residents have continued access to quality healthcare by appropriating State funds to maximize the availability of the federal disproportionate share hospital allowance."

"As we are all well aware, the current economic crisis has greatly affected Hawaii's healthcare and human services providers. Budget shortfalls have led to cuts for Medicaid/QUEST, which has been recognized as the cornerstone of healthcare for Hawaii's most needy population. However, the reimbursements and payments of Medicaid/QUEST to Hawaii's hospitals are inadequate and force hospitals to absorb multi-million dollar losses."

"In 2009, the Legislature overrode the Governor's veto of a bill that appropriated the State matching funds. To date, the Governor has not released the State funds, although federal funds remain available. The State matching fund appropriation under this measure is necessary to receive the federal allowance to continue providing State Medicaid coverage in the next fiscal year."

"For these reasons, I stand in strong support of this bill."

At 3:00 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 3:01 o'clock p.m.

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

"Thank you, Mr. Speaker. I do support this bill, but I do have some reservations and I just wanted to voice them. This particular bill, money has been appropriated, and so what this does is it extends the lapse date."

"Mr. Speaker, I can agree with that in bringing down more federal funds, but this kind of goal runs counter to some of the other movement that we tried to do early this Session when we stopped Lillian Koller the Director of Human Services through contracts of trying to pull down funds."

"But more so, what I think is important in this bill is when they lapse, I'm unsure of how our Finance Committee does our six-year financial plan. I'm just wanting to make sure that in the Majority's six-year financial plan, if the Governor has already committed to not releasing the funds, that this is re-established in that six-year financial plan and we still have a balanced budget and a six-year financial plan. So that's my reservations. Thank you."

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

"Mr. Speaker, I rise in strong support. Just for the edification of the Members, this particular appropriation is being re-appropriated or

extended, and we're not considering it to be lapsed in our financial plan. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. And thank you Chair for the clarification. So I think what this means is, for all intents and purposes because we don't have the financial plans to compare. I don't understand if we start off using the Governor's financial plan and her numbers if we actually end up with a financial plan with a balanced budget. So I know this gets into the weeds of things, and I realize that according to the numbers that the Majority has, that it is a balanced two-year budget and a six-year financial plan, but it just makes it hard for us to determine whether or not we're going off of the Governor's financial plan as well. Thank you."

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

"Thank you, Mr. Speaker. I'm standing in support with brief comments. Again Mr. Speaker, this \$12.7 million appropriation will be drawing down \$15 million from the federal government.

"The question regarding how this is going to impact the State of Hawaii's fiscal situation for the next six years; Mr. Speaker, the Chair feels that this will have exponential effects in a positive way to address the future healthcare situation. This money will be going to our hospitals who are struggling to care for those who can't afford their care. These services will be extended to Neighbor Islands, the HHSCs, as well as other needed hospital programs within the State. So Mr. Speaker, this is good for the people of Hawaii. 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. 2084, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL DISPROPORTIONATE SHARE HOSPITAL FUNDS," passed Final Reading by a vote of 51 ayes.

At 3:05 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2644, HD 2, SD 2, CD 1
 H.B. No. 1665, HD 1, SD 2, CD 1
 H.B. No. 415, HD 2, SD 2, CD 1
 H.B. No. 2692, HD 1, SD 1, CD 1
 H.B. No. 2157, HD 1, SD 1, CD 1
 H.B. No. 979, HD 1, SD 1, CD 1
 H.B. No. 2084, HD 1, SD 1, CD 1

Conf. Com. Rep. No. 58-10 and S.B. No. 2566, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2566, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I don't think it's any surprise that I will rise to speak against this measure again. It hasn't improved so therefore I'm still in opposition. Let me reiterate the obvious: employers are happy to provide good medical care to their employees. They pay plenty in premiums for this benefit. It's just that in Hawaii, we compensate almost every worker's comp claim that arises; even for a jogging injury after work. And that makes Hawaii's work comp costs so expensive.

"Let me enumerate my objections. One, this bill will increase medical costs and increase work comp premiums. Actuaries are unable to say how much more it will cost.

"Two, more medical providers will avail themselves of the availability to use a specialist since this bill will make it available, whether the injury calls for a specialist or not. Under current law, a specialist can be called in anytime if warranted, but only when warranted.

"Three, there was much testimony stating that this provision could lead to abuse and excessive use. A provider could refer a patient to a fellow practitioner down the hall who works for the same entity. With a tough economy and delayed payments, it's a tempting opportunity.

"Folks, this is not the time to load more mandates and costs on businesses. Things are getting very expensive: gas, electricity, rents, taxes and fees. Instead we should give businesses a break. How about it?"

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

"I just wanted to ask for a ruling of conflict. My husband is a doctor who takes worker's compensation cases," 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. 2566, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL AND REHABILITATION BENEFITS," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Marumoto voting no.

Conf. Com. Rep. No. 61-10 and S.B. No. 2019, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2019, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2019, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND OPERATOR PERMITS FOR THRILL CRAFT AND PARASAILING," passed Final Reading by a vote of 47 ayes to 4 noes, with Representatives Berg, Hanohano, Marumoto and Ward voting no.

Conf. Com. Rep. No. 62-10 and S.B. No. 2817, SD 1, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, and the report of the Committee was adopted and S.B. No. 2817, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY DEVICES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 65-10 and S.B. No. 2256, 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. 2256, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 66-10 and S.B. No. 2169, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2169, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, in opposition. Mr. Speaker, when the first anti-shark finning bill was passed in Hawaii ten years ago, it was considered landmark legislation that would lead the country, if not the world to take the necessary steps toward eradicating the practice of removing the fins of a shark and dumping the body back into the ocean. Hawaii's laws require that the entire shark be landed. This Body's efforts were successful with Congress later enacting anti-shark finning laws of its own.

"Although conservationists then hailed Hawaii's shark finning ban as groundbreaking legislation that would save the sharks from dying unnecessarily cruel deaths, 10 years have apparently proven that what this Body did was not enough for them.

"Now with this bill, conservationists want to go further by banning the possession of shark fins, thus eliminating any consumption of shark fins in the State of Hawaii. I fully support the intent of this bill, however I believe that this bill is going too far to the extreme.

"As Chair of the Judiciary Committee, my duty to this Body is to inform it of any bill's unintended consequences, and the second duty is to ensure laws are fairly applied. When I passed this bill out of the Judiciary Committee, I told everyone that I will not accept any draft that does not address the concerns of all parties, including those presented by the fisherman, business community, researchers, aquariums and Chinese community.

"First, the current law prohibiting shark finning is not only the strongest in the world, but it is working. The fishermen I talked to felt that the current law of landing the entire shark is a good balance because a shark takes up so much space on a boat, thus very little sharks are harvested. Plus when a shark is harvested the entire shark should be used just like the fish they catch.

"Conservationists argue that Hawaii will impact the entire world in regards to shark finning if we ban the possession of shark fins in Hawaii. But such a ban will have a tiny impact on the practice of shark finning in other parts of the world because our consumer market is a speck in this global economy. Rather, to truly make a global impact on the problem of shark finning in other parts of the world, Hawaii's ban on shark finning should be replicated in other governments all around the world. Our federal government could try to create international law that bans shark finning through international treaties.

"Second, this bill does not protect our fishermen from unintended catches. Unlike the ivory poacher who deliberately aims at going at a rhinoceros or elephant, the recreational or commercial fisherman casts his or her line into the ocean and hopes for the best. Fishing is just that, fishing. You don't know what you're going to catch until you pull those lines or nets in. Sometimes when you pull it in, you find a shark that is wounded or has died as it struggled on the line or the net. Instead of landing the wounded or dead shark and making use of the entire catch, fishermen will throw an already dying or dead shark back into the ocean with this new proposed bill. Wounded sharks thrown back into the ocean will have a slow and painful death. In this respect, the birth of this legislation has caused the attempt to save sharks from cruel and unnecessary deaths to backfire.

"Third, according to testimony from the Department of Land and Natural Resources, sharks in Hawaii are currently considered sustainable by the National Oceanic and Atmospheric Administration or the NOAA. The conservationists emphasize the importance of the ecosystem which is a community of organisms and its environment functioning as a ecological unit in nature. Too little predators in the ocean is bad because it could cause an increase in the population of the large fish that could eat up a lot more of the medium fish. On the contrary, too many predators in the ocean can cause a problem because they will cause a decrease in the population of the large fish which could result in an increase of the population of the medium fish that will over consume the small fish. Clearly, our current law is working and maintaining a healthy population of sharks in Hawaii.

"If sharks in Hawaii were in fact listed as an endangered species, then by all means there should be a ban on possession of any part of the shark. For us, let's impose all the laws protecting endangered species including our takings law that include mere harassment when an individual gets too close to the shark.

"Fourth, repeatedly in our House Judiciary Committee hearing, researchers and the current administrators opposed the measure unless there was an exemption for them. However, they emphasize that they do not want a permitting process. This bill does exactly what they oppose, as it requires individuals to apply for a license or permit from the Department

of Land and Natural Resources to be exempt of this law for research and educational purposes.

"Further, commercial aquariums will not meet the criteria to be exempted from the law if they do not conduct research or have any educational purpose."

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

Representative Karamatsu continued, stating:

"Thank you. Fifth, this bill will have a negative economic impact on the fishermen, especially to our business community. In its current form the bill no longer distinguishes between fins naturally attached to or separated from the body of a shark. Therefore it is not possible for any person other than a researcher to possess a whole shark or remove it from the ocean. This prohibition will effectively kill any shark fishing operation that sells whole sharks for steaks or any other kind of consumption within the State.

"Sixth, I've encountered so many advocates in my eight years in this institution and time and time again a good number of them think that negativity can force lawmakers to agree with them through their use of threats and personal attacks rather than honest debate on policy. Believe me, I've had my share of attacks by a lot of people especially with my tenure as Chair of the Judiciary Committee and I consider the conservationist's attacks as uncalled for, except for the United States Humane Society which I really enjoyed working with.

"Seventh, this bill unfairly targets our local Chinese community who have traditions of serving shark fin soup for special occasions such as weddings, important business dinners, New Years Day, as well as medicinal practices. Outsiders and transplants into Hawaii continue to impose their beliefs upon the multicultural community in Hawaii. So what is next? Will we introduce a bill to ban *kamaboko* in Hawaii if it contained shark meat?

"For Americans of Japanese ancestry and many locals, the importance of eating *ozoni* soup on New Years Day as our first meal for good luck cannot be comprehended by those who do not understand our culture. The same goes for the importance of serving shark fin soup for special occasions and the use of shark fins for medicinal purposes.

"Many in the Chinese community have brought me in and shared their culture with me because of my openness to learn and practice their culture. In fact I'm wearing *feng shui* beads made out of rubies on my wrist to help bring balance within me. Likewise as Judiciary Chair, I seek to find balance within the laws.

"Ten years ago we passed a law banning shark finning in Hawaii to prevent cruelty to sharks. Now conservationists want us to stop shark finning around the world by us going further and banning the possession of shark fins in Hawaii. Rather, the conservationists need to lobby the rest of the world to replicate our law which they touted 10 years ago as a landmark legislation that will lead the world. So I recommend that they do that in replicating our current law banning shark finning. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support with just some brief comments. I empathize with the passions of the Judiciary Chair, but I have to disagree on several points. First of all, on the issue of the fishing of the sharks. The fact of the matter is, as the good Chair said, they take up too much space on the boat. So if they take up too much space on the boat and they're not catching them anyway, why would allowing them to catch a shark that is accidentally caught, why would they change their practice and bring it aboard? You know what they're going to do? They're going to cut the line and let the 'buggah' go anyway, because they don't want it on the boat because it takes up too much space.

"Second of all, the local fishermen like this. During the Conference Committee we tried to reach out to all the groups to share the proposed

Conference Draft 1, and basically what the local long line fisherman said is, 'Good.' Because right now, there's unfair competition in their eyes. They have to adhere to the current law of bringing the fin in with the whole animal and land it. But foreign fisheries don't abide by that. So what happens? They come into Honolulu Harbor with 'choke' fins on their boat, Mr. Speaker, and they sell to the Chinese restaurants, but the local fishermen cannot because they have to land it whole. So therefore they supported this because they see this as a fairness issue. If they can't bring shark fins in and sell them, then why should those who are flying under a foreign flag vessel be able to do the same thing?

"Finally to the permit issue, Mr. Speaker. The reality is that this DLNR permit isn't an additional requirement. It's a requirement that's already in law for any research or educational activities. There was language in the proposed bill that would have it conform to the US Fish and Wildlife permitting system, which was shut, because that would be the addition of an additional permit. All this says is, you have to just have the permit that you needed anyway in order to be able to take the animal.

"And finally Mr. Speaker, the Native Hawaiian community is especially supportive of this legislation because they look at the sharks not just as another animal in the sea, but they look at this as their *'aumakua*. They have a very special relationship with them, and that is the reason why they see this as an important thing, because they are concerned about fishing.

"And finally, while local sharks stock are strong, they're very strong we understand that, but the fact of the matter is, it's the stocks that are outside of our State waters within the EEZ that are in peril due to foreign fishery activities. We tried to strike a balance, Mr. Speaker. That's why we have a phase in period, so that restaurants can use up their existing stock. We slid the penalties back to make it purely monetary, and we tried our best to make a balanced law. And the reason why we took the existing law and have repealed it, is because the new law is stronger.

"Mr. Speaker, your Conference Committee tried to reach that balance. They tried to bring fairness, and tried to work with the restaurant industry. And here's another thing, Mr. Speaker. Artificial shark fin soup has been introduced and is becoming quite popular, and many restaurants I know are going to start carrying that instead because they don't want to deal with the humbug.

"So Members, I understand the passions of both sides. This is a controversial issue. But I just want to note that we in your Conference Committee tried to take an approach, and we tried to work with all the parties to come up with something that we could all support. Because at the end of the day, this is about not only promoting and protecting our local fishermen, but it's also about trying to ensure that the pelagic stock of sharks outside of Hawaii which have an intricate relationship to the stock of fish within Hawaii can be preserved and maintained for future generations. Thank you, very much."

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

"Thank you, Mr. Speaker. I'd like a ruling on a conflict. The shark is my family *aumakua*," and the Chair ruled, "no conflict."

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise with reservations on Conf. Com. Rep. No. 66-10. The Shark, as I was told growing up, is our family *Aumakua*. I was told that eating shark meat or any shark based products was forbidden. My reservation is based in large part on the fact that the proposed measure, although it intends to ban the selling of shark fins, allows the selling of shark fins for another year, to allow restaurants and other retailers to deplete their stocks. I am firmly against the harvesting of sharks for meat, fins, and other food products, outside Hawaiian protocol."

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

"Thank you, Mr. Speaker. In strong support and just a few comments. I'd like to have the words of the speaker from Maui adopted as my own and I think in response, in rebuttal, to the comment about shark finning being a cultural practice. Two things I would like to point out. I think internationally within China there is actually a movement to ban shark fin soup, so Chinese culture is in flux and so that argument I think does not hold well for me. Secondly, a very persuasive testimony before the Judiciary Committee I'd like to repeat was from former First Lady Vicky Cayetano who said that eating shark fin soup is about as cultural as foot binding of women. I'm pleased to say that foot binding is not acceptable in this State as a Chinese woman, and I'm glad to see that this legislation is moving forward to also ban shark finning here. Thank you."

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

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in opposition. When the first anti-shark finning bill was passed in Hawaii, ten years ago, it was considered landmark legislation that would lead the country, if not the world, to take the necessary steps towards eradicating the practice of removing the fins of a shark and dumping the body back into the ocean. Hawaii's law requires the entire shark to be landed. This Body's efforts were successful, with Congress later enacting anti-shark finning laws of its own.

"Although conservationists then hailed Hawaii's shark finning ban as ground-breaking legislation that would save sharks from dying unnecessarily cruel deaths, the intervening ten years have apparently proven that what this Body did was not enough to save them.

"Now with this bill, conservationists want to go further by banning the possession of shark fins, thus eliminating any consumption of shark fins in the State of Hawaii. I fully support the intent of this bill; however, I believe that this bill is going too far to the extreme. As Chair of the Judiciary Committee, my duty to this Body is to inform it of any bill's unintended consequences. My second duty is to ensure laws are fairly applied.

"When I passed this bill out of the Judiciary Committee, I told everyone that I would not accept any draft that does not address the concerns of all parties including those presented by the fisherman, business community, researchers, aquariums, and Chinese Community.

"First, the current law prohibiting shark finning is not only the strongest in the world, but it is working. The fishermen I talked to felt that the current law of landing the entire shark is a good balance because the shark takes up so much space on a boat, thus, very little sharks are harvested. Plus, when a shark is harvested, the entire shark should be used just like the fish they catch. Conservationists argue that Hawaii will impact the entire world in regards to shark finning if we ban the possession of shark fins in Hawaii, but such a ban will have a tiny impact on the practice of shark finning in other parts of the world because our consumer market is a speck in this global economy. Rather, to truly make a global impact on the problem of shark finning in other parts of the world, Hawaii's ban on shark finning should be replicated in other governments around the world. Our federal government could try to create international law that bans shark finning through international treaties.

"Second, this bill does not protect our fisherman from unintended catches. Unlike the ivory poacher who deliberately aims a gun at a rhinoceros or elephant, the recreational or commercial fisherman casts his or her line into the ocean and hopes for the best. Fishing is just that, "fishing." You don't know what you are going to catch until you pull those lines or nets in. Sometimes one may pull in a shark that is wounded or has died as it struggled on the line or in the net. Instead of landing the wounded or dead shark and making use of the entire catch, fishermen will throw back an already dying or dead shark back into the ocean. Wounded sharks thrown back into the ocean will have a slow and painful death. In

this respect, the breadth of this legislation has caused the attempt to save sharks from cruel and unnecessary deaths to backfire.

"Third, according to testimony from the Department of Land and Natural Resources, sharks in Hawaii are currently considered sustainable by National Oceanic and Atmospheric Administration (NOAA). The conservationists emphasize the importance of the ecosystem, which is the community of organisms and its environment functioning as an ecological unit in nature. Too little predators in the ocean is bad because it could cause an increase in the population of the large fish that could eat up a lot more of the medium fish. On the contrary, too many predators in the ocean can cause a problem because they will cause a decrease in the population of the large fish, which could result in an increase in the population of the medium fish that would over-consume the small fish. Clearly, our current law is working and maintaining a healthy population of sharks in Hawaii. If sharks in Hawaii were in fact listed as an endangered species, then by all means, there should be a ban of possession of any part of the shark, plus let's impose all the laws protecting endangered species including our "takings" law that includes mere harassment when an individual gets too close to the shark.

"Fourth, repeatedly in our House Judiciary Committee hearing, researchers and aquarium administrators opposed the measure unless there was an exemption for them, however, they emphasized that they did not want a permitting process. This bill does exactly what they opposed, as it requires individuals to apply for a license or permit from the Department of Land and Natural Resources to be exempt from this law for research or educational purposes. Further, commercial aquariums will not meet the criteria to be exempted from the law if they do not conduct research or have any educational purpose.

"Fifth, this bill will have a negative economic impact on the fishermen, especially to our business community. In its current form, the bill no longer distinguishes between fins naturally attached to or separated from the body of a shark. Therefore, it is not possible for any person other than a researcher to possess a whole shark or remove it from the ocean. This prohibition will effectively kill any shark-fishing operation that sells whole sharks for steaks or any other kind of consumption within the State.

"Sixth, I have encountered so many advocates in my eight years in this institution, and time and time again, a good number of them think that negativity can force lawmakers to agree with them through their use of threats and personal attacks rather than an honest debate on policy. Believe me, I had my share of attacks by people, especially with my tenure as Chair of the Judiciary Committee, and I consider the conservationists' attacks as uncalled for, except for the Humane Society of the United States, which I enjoy working with.

"Seventh, this bill unfairly targets our local Chinese community who has traditions of serving shark fin soup for special occasions such as weddings, important business dinners, New Year's Day, as well as the medicinal practices. Outsiders and transplants into Hawaii continue to impose their beliefs upon the multicultural community in Hawaii. So what is next? Will they introduce a bill to ban *kamaboko* in Hawaii if it contains shark meat in it? For Americans of Japanese ancestry and many locals, the importance of eating *ozoni* soup on New Year's Day as our first meal for good luck cannot be comprehended by those who do not understand our culture. The same goes for the importance of serving shark fin soup for special occasions and the use of shark fin for medicinal purposes. Many in the Chinese community have brought me in and shared their culture with me because of my openness to learn and practice their culture. In fact, I am wearing *feng shui* beads made of rubies to help bring balance within me. Likewise, as Judiciary Chair, I seek to find balance in the laws.

"Ten years ago, we passed a law banning shark finning in Hawaii to prevent cruelty to sharks. Now conservationists want us to stop shark finning around the world by having us go further and ban the possession of shark fins in Hawaii. Rather, the conservationists need to lobby the rest of the world to replicate our law banning shark finning, which they touted ten years ago as the landmark legislation that would lead the world. Thank you, Mr. Speaker."

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

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

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

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

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

"Mr. Speaker, I rise in support with reservations on SB 2169, Conference Draft 1.

"Hawaii's current shark fining laws address concerns regarding cruelty to animals. It prevents people from harvesting shark fins in State waters and returning the finless fish back into the water to die. SB 2169, Conference Draft 1 will repeal the current fining law, and make it illegal to possess, sell, offer for sale, trade or distribute shark fins and impose strict administrative fines on violations.

"Although seemingly laudable, as written, this new law poses concerns for commercial and recreational fishermen who inadvertently catch, and to avoid waste, keep a shark for its flesh. Commercial fishermen sell the flesh at market and most recreational fishermen, trade or sell the flesh for consumption. I recently purchased some shark at Foodland in Wahiawa, and pan-fried it with some *shoyu* and sugar. It was firm white meat and inexpensive compared to local *aku* or *ahi* or *mahi-mahi*.

"Under the provisions of SB 2169, Conference Draft 1, fishermen will need to either catch a finless and tail-less shark, not very likely, or immediately, upon landing a shark, remove and discard the fins and tails of the shark without being caught in the act of removing the fins and tail. If caught in possession of the fins and tails prior to disposal, they would technically be in violation of the law. This could be very dangerous, especially at sea, and may prompt fishermen to instead cut their lines and not attempt to even land the shark. But, this too could have terrible environmental consequences as hundreds of yards of indestructible trolling fishing line are released into our ocean. An exception for inadvertent catch should have been drafted into the bill or done so by a future Legislature. In the alternative, Hawaii courts should accept as a "good faith" defense, inadvertent catch by commercial or recreational fishermen.

"Finally, it needs to be clarified that Hawaii does not have a shark fining problem under the existing law, nor do we have a problem with the overharvesting of shark for its fins. Further, expert researchers agree that coastal shark populations in Hawaii are currently healthy and are not targeted for fishing. Commercially, sharks have only been caught as by-catch and recreationally, fishermen consider a shark to be a nuisance. Regardless, this bill would require all sharks caught commercially as by-catch, or recreationally for consumption or bait, to be finned (dead or alive) at the ocean so only the carcass is taken.

"SB 2169, Conference Draft 1 merely replaces a currently functional and adequate fining law, creating problematic enforcement of a possession law and resulting in no apparent benefit, but instead may contribute to waste of good fish protein and lead to environmental degradation.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'll be with reservations. Mr. Speaker, I came in with basically a yes vote completely on this bill. But there was good debate and I appreciate the Chair of Judiciary's long speech. Anyway I appreciate it, and I'll be voting with reservations. Thank you."

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

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

"Thank you, Mr. Speaker. I stand in strong support and I'd like to adopt the words from the Representative from Lahaina and the Representative from Makiki as my own. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2169, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SHARK FINs," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Karamatsu voting no.

Conf. Com. Rep. No. 67-10 and S.B. No. 2020, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2020, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, may I have a ruling on a possible conflict. I'm an officer of a small business in that area. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. May I also have a ruling on potential conflict? My law firm represents the sole land owner that would be affected by this legislation," and the Chair ruled, "no conflict."

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

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

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

"Thank you. On this measure, I would like a no vote and I'd like to insert comments. Actually, it's two testimonies from the AG from last year stating that he believes that this is unconstitutional. And the three court dockets that I've requested in the past. Thank you."

Representative Takai submitted the following documents:

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STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 Queen Street
HONOLULU, HAWAII 96813
(808) 586-1500
April 23, 2009

- VIA FACSIMILE NO. 586-6071
Honorable Rosalyn H. Baker
Chair, Senate Conference
Committee
- VIA FACSIMILE NO. 586-6461
Honorable Brian T. Taniguchi
Co-Chair, Senate Conference
Committee
- VIA FACSIMILE NO. 586-8426
Honorable Sam Slom
Manager, Senate Conference
Committee
- VIA FACSIMILE NO. 586-6161
Honorable Angus L. K. McKelvey
Co-Chair, House Conference
Committee
- VIA FACSIMILE NO. 586-8484
Honorable Clift Tsuji
Co-Chair, House Conference
Committee
- VIA FACSIMILE NO. 586-8494
Honorable Jon Riki Karamatsu
Co-Chair, House Conference
Committee
- VIA FACSIMILE NO. 586-6341
Honorable Blake K. Oshiro
Manager, House Conference
Committee
- VIA FACSIMILE NO. 586-6481
Honorable Cynthia Thielen
Manager, House Conference
Committee

Re: S.B. No. 764, S.D. 2, H.D. 2, Relating to Real Property Meeting on April 23, 2009 at 10:15 a.m.

Dear Conferees:

The purpose of this bill is to change the process for renegotiating the amount of rent during the term of an existing commercial or industrial lease, unless expressly stated otherwise in the lease. In addition, with respect to leases of certain private agricultural lands where the lessee has made or is seeking to make improvements on the land, this bill requires

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Conferees on S.B. No. 764, S.D. 2, H.D. 2
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Page 2

the renegotiated term of the lease to include an extension of the lease for a period at least seventy-five percent of the original term of the lease. The bill also prohibits the amendment of a land use district boundary Class A and B agricultural lands that meet four criteria.

Legal concerns regarding state impairment of contracts are raised by the proposed language affecting existing commercial and agricultural leases.¹

It is well established that a retroactive law in a constitutional sense is one that takes away or impairs vested rights acquired under existing laws or attaches a new obligation, imposes a new duty, or attaches a new disability with respect to transactions or considerations already concluded. *Employees Retirement Sys. v. Chang*, 42 Haw. 532, 535 (1956). Generally, retrospective laws are not favored and all laws will be construed as prospective unless retrospective application is clearly intended and expressly declared, or is necessarily implied from the language used. *Clark v. Cassidy*, 64 Haw. 74 (1981). This principle is particularly applicable where the statute or amendment involves substantive, as opposed to procedural, rights. *Clark*, 64 Haw. at 77; *Dash v. Wayne*, 700 F. Supp. 1056 (D. Haw. 1988).

With respect to the constitutional proscription against impairment of contracts, it is a fundamental principle that obligations of a contract cannot be impaired by subsequent passage of any law. *Taylor v. Taylor*, 537 F.2d 483, 486 (Mont. 1975); *Pulos v. James*, 302 N.E.2d 768, 775 (Ind. 1973). The obligation of a contract is impaired by a law that alters the contract's terms by creating new rights or imposing new conditions or different liabilities. *Northern Pacific Railway v. Duluth*, 208 U.S. 583, 590 (1908). "Any law which changes the legal effect of the original parties, giving to one greater or the other a less interest or benefit in the contract, impairs its obligation." *Kentucky Utilities Co. v. Carlisle Ice Co.*, 131 S.W.2d 499, 504 (1939). See also *Anthony v. Kualoa*

¹The United States Constitution states, in part, that "[n]o state shall . . . pass any . . . Law impairing the Obligation of Contracts . . ." U.S. Const., Art. I, § 10, cl. 1. ("Contracts Clause")

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Conferees on S.B. No. 764, S.D. 2, H.D. 2
April 23, 2009
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Ranch, Inc., 69 Haw. 112, 119-24 (1987) [Law, enacted after lease executed, that required lessors to pay, at the sole option of the lessees, for improvements built upon the leased premises in order to get the leased premises back, substantially impaired the contractual rights of the parties and was unconstitutional].

The importance of protecting the obligation of contracts from all legislative action tending to its impairment has been emphasized by the Supreme Court of the United States. That high tribunal has stated that the inviolability for contracts and the duty to perform them, as made, are at the foundation of all well-ordered society that, to prevent the removal or disturbance of these foundations was one of the great objects for which the Constitution was framed, and that it is one of the highest duties of that court to take care that the prohibition should neither be evaded nor frittered away.

16A Am. Jur. 2d Constitutional Law § 694 (1979) (emphases added).

However, because states are vested with authority to safeguard the vital interests of their residents, the impairment clause is liberally construed and prohibits only unreasonable impairment. *Id.*; *Energy Reserves v. Kansas Power & Light*, 459 U.S. 400, 409 (1983). Reasonableness is determined by whether the law addresses a legitimate end and whether the measures taken to reach that end are reasonable and appropriate. It is important to recognize that the power of a state to modify or affect the obligation of a contract under the state's protective powers is not without limit. "Yet the contract clause limits otherwise legitimate exercises of state legislative authority, and the existence of an important public interest is not always sufficient to overcome that limitation." *United States Trust Co. v. New Jersey*, 431 U.S. 1, 21 (1977). See also *El Paso v. Simmons*, 379 U.S. 497, 506-9 (1965).

As noted above, this bill appears to intrude upon renegotiations of lease rent by interjecting, unless otherwise stated in the lease, its construction of "fair and reasonable annual rent" in commercial or industrial leases to mean that

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Conferees on S.B. No. 764, S.D. 2, H.D. 2
April 23, 2009
Page 4

"rent shall be fair and reasonable to both the lessor and the lessee to the lease." S.B. No. 764, S.D. 2, H.D. 2, page 4, lines 3-5. Unless otherwise stated in the lease, this bill also imposes a new requirement in such lease rent renegotiations that they include consideration of the "past renegotiation practices and policies throughout the previously renegotiated lease rents, the uses and intensity of use of the lease property during the term of the lease approved by the lessor, the surface and subsurface characteristics of the leased property and the surrounding neighborhood on the renegotiated date, and the gross income generated by the lessees on the renegotiated date." S.B. No. 764, S.D. 2, H.D. 2, page 4, lines 8-18. In addition, this bill provides four factors in defining "commercial or industrial leasehold property" and also defines "lease".

With respect to leases for agricultural lands, this bill intrudes upon leases of certain private agricultural lands by requiring the renegotiated term of the lease to include an extension of the lease for a period at least seventy-five per cent of the original term of the lease. S.B. No. 764, S.D. 2, H.D. 2, page 7, lines 9-20. The bill's provisions as to agricultural leases only concern revisions to the term of the lease and our views on these provisions are discussed at the end of this letter.

Despite the customary deference accorded to social and economic legislation, laws altering the rights and obligations of contracting parties must be reasonable and necessary for the public purpose for which they were enacted. *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244 (1977); *Applications of Herrick & Irish*, 82 Haw. 329, 922 P.2d 942 (1996). While section 1 of this bill describes the need to strengthen and diversify Hawaii's economy, there is no evidence that this bill will achieve the stated purpose to stabilize the economy by addressing some of the alleged vague or onerous provisions of existing commercial and industrial leases. S.B. No. 764, S.D. 2, H.D. 2, page 2, lines 11-19. For example, the four factors of "commercial or industrial leasehold property" do not necessarily identify how they are linked to a benefit for the business tenants in Oahu's urban center, as opposed to those in the Ewa region or central Oahu, as stated in section 1 of the bill. S.B. No. 764, S.D. 2, H.D. 2, page 2, lines 1-10. A lessor in Kapolei

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Conferees on S.B. No. 764, S.D. 2, H.D. 2
April 23, 2009
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could meet those four factors, thus owning property that falls within the definition "commercial or industrial leasehold property", and be subject to the requirements of this bill.

On the other hand, a lessor in Mapunapuna with fewer than fifty thousand square feet would not meet the fourth factor and not own property that falls within the definition of "commercial or industrial leasehold property", and thus not be subject to the requirements of this bill.

In addition, the third factor, regarding a lease with a term of ten years or more and an unexpired term of five years or more, could apply to various recent leases in the Ewa region or central Oahu, whereas section 1 of the bill appears to focus on urban communities which historically have housed small commercial or industrial businesses. S.B. No. 764, S.D. 2, H.D. 2, page 2, lines 19-21 ("Thus, maintaining close geographic ties between small businesses and the communities they serve is a public purpose that requires legislative support.")

In summary, it is unclear how focusing the definition of "commercial or industrial leasehold property" on the nature of the lessor is sufficiently tailored to the bill's stated purpose of easing burdensome lease provisions on lessees. S.B. No. 764, S.D. 2, H.D. 2, page 3, lines 3-5.

At this time, it is unclear from the record how pervasive the alleged problem is, or the actual number of commercial and industrial leases affected by this bill, or how the bill's proposals actually benefit urban businesses. The government must use the least intrusive means to achieve its goals. It is not free to impose a drastic impairment when an evident and more moderate course would serve its purposes equally well. *United States Trust Co. v. New Jersey*, 431 U.S. at 31.

Legislation impairing commercial or industrial leases would be more defensible if based on articulated findings of need, demonstrated evidence that the proposed legislation will achieve the stated purpose, and explanation that no lesser remedy (such as arbitration, mediation, or litigation) is available. The bill's proposed definition of "commercial or industrial leasehold property" seems focused upon lessors and does not appear to be "a reasonable and narrowly-drawn means of promoting

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April 23, 2009
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the significant and legitimate public purpose." *Applications of Herrick & Irish*, 82 Haw. 329, 340, 922 P.2d 942, 953. Consequently, it appears this bill may violate the Contracts Clause and be found unconstitutional.

With respect to section 5 of part II of this bill, we raise the same concerns regarding state impairment of contracts. To the extent the bill intrudes upon renegotiations of lease rents for certain private agricultural lands, such intrusion is subject to the same analysis used for part I of the bill regarding commercial and industrial leases. Section 4 of the bill justifies the intrusion and Section 5 appears to be a reasonable and narrowly-drawn means of promoting a significant and legitimate public purpose. However, as with part I of the bill, the state impairment of private agricultural leases may be subject to challenge.

Very truly yours,

Shari Wong
Shari Wong
Deputy Attorney General

APPROVED:

Mark J. Bennett
Mark J. Bennett
Attorney General

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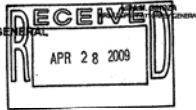
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LINDA LINGELE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
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MARK J. BENNETT
ATTORNEY GENERAL

April 28, 2009

Conferees on S.B. No. 764, S.D. 2, H.D. 2
April 28, 2009
Page 3

found unconstitutional, the proposals may also constitute "takings" that give rise to a right to receive compensation from the sovereign.

Very truly yours,

Shari Wong
Shari Wong
Deputy Attorney General

VIA FACSIMILE NO. 586-6071
Honorable Rosalyn H. Baker
Chair, Senate Conference
Committee

VIA FACSIMILE NO. 586-6161
Honorable Angus L. K. McKelevy
Co-Chair, House Conference
Committee

VIA FACSIMILE NO. 586-6461
Honorable Brian T. Taniguchi
Co-Chair, Senate Conference
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VIA FACSIMILE NO. 586-8484
Honorable Clift Tsuji
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Committee

VIA FACSIMILE NO. 586-6341
Honorable Blake K. Oshiro
Manager, House Conference
Committee

VIA FACSIMILE NO. 586-6481
Honorable Cynthia Thielen
Manager, House Conference
Committee

APPROVED:
Mark J. Bennett
Mark J. Bennett
Attorney General

Re: S.B. No. 764, S.D. 2, H.D. 2, Relating to Real Property
Meeting on April 28, 2009 at 10:15 a.m.

Dear Conferees:

We supplement our letter to you dated April 23, 2009, and
note our additional concern that the proposals of S.B. No. 764,
S.D. 2, H.D. 2, may impair private contracts and constitute

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Conferees on S.B. No. 764, S.D. 2, H.D. 2
April 28, 2009
Page 2

"takings" which gives rise to a right to receive compensation
from the sovereign. A compensable regulatory taking occurs when
governmental agencies impose restrictions that either 1) deny
landowners of all economically viable use of their property, or
2) unreasonably interfere with landowners' rights to use and
enjoy their property. Mayhew v. Town of Sunnyvale, 964 S.W.2d
922, 933-35 (Tex. 1998).

A regulation may go so far in imposing public burdens on
private interests as to require compensation. In deciding
whether regulatory action goes "too far", three principles known
as the Penn Central factors have emerged: 1) the "economic
impact of the regulation on the claimant"; 2) "the extent to
which the regulation has interfered with distinct investment-
backed expectations"; and 3) "the character of the governmental
action". Penn Cent. Transp. Co. v. City of New York, 438 U.S.
104, 124 (1978). Penn Central does not supply mathematically
precise variables but instead provides important guideposts that
lead to the ultimate determination whether just compensation is
required. Whether a regulatory taking has occurred, "depends on a
complex of factors including" the three set out in Penn
Central. Sheffield Dev. Co. v. City of Glenn Heights, 140 S.W.
3d 660 (Tex. 2004). The analysis "necessarily requires a
weighing of private and public interests" and a "careful
examination and weighing of all the relevant circumstances in
this context." In considering a regulatory takings issue, a
court will "consider all of the surrounding circumstances" in
applying "a fact-sensitive test of reasonableness." Sheffield
at 670-72.

A court must satisfy itself that the legislature's
"adjustment of 'the rights and responsibilities of contracting
parties [is based] upon reasonable conditions and [is] of a
character appropriate to the public purpose justifying [the
legislation's] adoption.'" Keystone Bituminous Coal Ass'n v.
DeBenedictis, 480 U.S. 470, 505 (U.S. 1987). As we have stated
previously, the proposals of S.B. No. 764, S.D. 2, H.D. 2 do not
appear to be a reasonable and narrowly-drawn means of promoting
a significant and legitimate public purpose in protecting
certain commercial or industrial leasehold property, or certain
private agricultural lands. As such, in addition to the bill's
proposals possibly violating the Contracts Clause and being

331055v1

Of Counsel:

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HRPT Properties Trust, et al.

APR-28-2009 08:02AM FAX:5861205

ID:REP BLAKE OSHIRO

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HRPT Properties Trust, et al.,) CIVIL NO. 09-0375 SOM/KSC
)
Plaintiffs,)
)
v.) PLAINTIFFS' EX PARTE MOTION TO
) ADVANCE THE HEARING DATE OF
) PLAINTIFFS' MOTION FOR
) SUMMARY JUDGMENT [FILED
) 2/17/10] [#67]; DECLARATION OF
) BRUCE D. VOSS; EXHIBITS 1-5;
) PROPOSED ORDER GRANTING
) PLAINTIFFS' EX PARTE MOTION TO
) ADVANCE THE HEARING DATE OF
) PLAINTIFFS' MOTION FOR
) SUMMARY JUDGMENT [FILED
) 2/17/10] [#67]; CERTIFICATE OF
) SERVICE
)
) NON-HEARING MOTION
)
)

PLAINTIFFS' EX PARTE MOTION TO ADVANCE THE HEARING DATE
OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT [FILED 2/17/10]

Plaintiffs HRPT Properties Trust and its affiliate companies, by and
through counsel, move this Court ex parte for an order advancing the hearing date
of Plaintiffs' Motion for Summary Judgment, filed February 17, 2010. (See Doc.
67.) Plaintiffs' Motion for Summary Judgment is currently scheduled to be heard
on May 10, 2010, at 10:30 a.m. before the Honorable Susan Oki Mollway. (See
Doc. 69.)

elect to advance the hearing date. If the Court were to advance the hearing to the
earliest possible date of April 5, 2010, Defendants would have until March 15,
2010, nearly a month from now, to prepare their responses to HRPT's Motion for
Summary Judgment.

Plaintiffs therefore respectfully request that this Court advance the
hearing to a date before the end of the legislative session.

This motion is made pursuant to Federal Rule of Civil Procedure 7
and Local Rule 7.2, and is based upon the Declaration of Bruce D. Voss attached
hereto.

Dated: Honolulu, Hawai'i, February 19, 2010.

/s/ Bruce D. Voss
Bruce D. Voss
Ryan H. Engle
Matthew C. Shannon
Clifford M. Sloan
David W. Foster
Attorneys for Plaintiffs
HRPT Properties Trust, et al.

In this case, Plaintiffs seek a declaratory judgment that Act 189 of the
2009 session of the Hawai'i Legislature violates the Contracts Clause and six other
constitutional provisions, and is therefore unconstitutional. By its terms, Act 189
expires on June 30, 2010. (See Ex. 1.) At the urging of Intervenor-Defendant
Citizens for Fair Valuation, the Legislature is currently considering two bills,
Senate Bill No. 2020 and House Bill No. 2284, to extend the Act. (See Exs. 2-3.)
The 2010 legislative session, however, is scheduled to end April 29, 2010, more
than a week before the current May 10, 2010 hearing date. (See Ex. 4.)

Disputes regarding the constitutionality of Act 189 have affected and
will continue to affect legislative consideration of Senate Bill No. 2020 and House
Bill No. 2284. For example, the Senate Committee on Commerce and Consumer
Protection recently issued a report supporting a five year extension of the Act and
listing HRPT's "filing of a lawsuit in federal district court challenging the
constitutionality of Act 189" as a reason for the Act's extension. (Ex. 5 at 2.)
Advancing the date of the hearing would assist and provide guidance to the
Legislature and the parties by allowing the Court to consider the constitutionality
of Act 189 before the legislative session ends.

Plaintiffs have been informed by this Court's courtroom manager that
hearing slots are potentially available to hold a hearing on a motion for summary
judgment on April 5, 2010 and April 12, 2010, should the Court in its discretion

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HRPT PROPERTIES TRUST, et al.,) CIV. NO. CV09-0375 SOM KSC
)
Plaintiffs,)
)
vs.)
)
LINDA LINGLE, in her official)
capacity as Governor of the State)
of Hawai'i,)
)
Defendant,)
)
CITIZENS FOR FAIR)
VALUATION)
)
Intervenor-Defendant)

INTERVENOR CITIZENS FOR FAIR VALUATION'S MEMORANDUM
IN SUPPORT OF EX PARTE MOTION TO CONTINUE THE HEARING
DATE OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT [#67]
AND FORTHCOMING COUNTERMOTIONS FOR SUMMARY
JUDGMENT TO BE FILED BY DEFENDANT AND INTERVENOR-
DEFENDANT BY ONE WEEK (TO MAY 17, 2010) AND OPPOSITION TO
PLAINTIFFS' MOTION TO ADVANCE TIME [#70]

This Honorable Court has scheduled the hearing on Plaintiffs' Motion for
Summary Judgment for Monday, May 10, 2010 at 10:30 a.m. [#69]. On Friday,
February 19, 2010, Plaintiffs filed an ex parte Motion to Advance the Hearing Date
[#70], arguing that an earlier hearing and ruling by this Court "would assist and
provide guidance to the Legislature." Intervenor-Defendant CFV opposes this

Motion and requests that the Hearing be set for Monday, May 17, or as soon thereafter as is convenient for the Court, for the reasons that follow.

After this Honorable Court's Order of December 22, 2009, the parties engaged in discussions regarding discovery, but they were not able to reach any agreement. In paragraph 11 of Mr. Voss's Declaration he refers to his "understanding" of those discussions, but he is incorrect in indicating that any consensus or agreement had been reached. Because no agreement was possible, the parties held a Status Conference in front of Magistrate Judge Chang on Monday, January 25, 2010, where he explained the scope of discovery for the parties. Pursuant to that clarification, Plaintiffs noticed and took the deposition of Michael Steiner on Tuesday, February 9, 2010, and Intervenor-Defendant CFV have noticed the deposition (by video conference) of David Lepore to be taken on Thursday, February 25, 2010. On Wednesday, February 17, 2010, Plaintiffs filed their Motion for Summary Judgment, and attached a series of Declarations and documents purporting to provide information relevant to this Court's Order of December 22, 2009. This new information is now being evaluated by the other parties, and further depositions or other discovery may be necessary in light of this new information. The deposition of Mr. Lepore may also produce new information that may require further discovery requirements. The discovery process is thus still evolving, and any advancement in the hearing date will

interfere with the efforts of all the parties to complete the discovery required by this Court's Order of December 22, 2009.

The lead attorney for Defendant Governor Linda Lingle, Mr. Girard Lau, has been on travel leave in recent days, and is due to return to the islands on Thursday, February 25. He has not been available, therefore, to evaluate the Plaintiffs' Motion for Summary Judgment or the new information accompanying that filing, and will need time after his return to engage in this evaluation and to decide whether the interests of his client require further discovery.

In January 2010, the lead attorney for Intervenor-Defendant CFV, Mr. Jon M. Van Dyke, accepted an invitation from the Maritime Institute of Malaysia to give a presentation in Kuala Lumpur, Malaysia, on issues related to the delimitation of the continental shelf in the South China Sea at a conference scheduled for May 10-11, 2010. Because of this conflict, Intervenor-Defendant CFV respectfully requests this Court to schedule the Hearing on Monday, May 17, 2010, or as soon thereafter during that week as would be convenient for the Court.

DATED: Honolulu, Hawai'i, February 23, 2010.

Jon M. Van Dyke */s/ Jon M. Van Dyke*
 Sherry P. Broder
 Jay M. Fidell
 Keith S. Agena
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Attorneys for Defendant
 LINDA LINGLE, in her official
 capacity as Governor of the State of Hawaii

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAII

HRPT PROPERTIES TRUST and
 affiliate companies:
 MASTER PROPERTIES LLC, a
 Maryland limited liability company,
 ROBIN 1 PROPERTIES LLC, a
 Maryland limited liability company,
 TANAKA PROPERTIES, LLC, a
 Maryland limited liability company,
 LTMAC PROPERTIES, LLC, a
 Maryland limited liability company,

NO. CV 09-0375 SOM/KSC
 LINDA LINGLE, IN HER OFFICIAL
 CAPACITY AS GOVERNOR OF
 THE STATE OF HAWAII'S
 STATEMENT RE:
 PLAINTIFFS' EX PARTE MOTION
 [#70] TO ADVANCE THE
 HEARING DATE OF PLAINTIFFS'
 MOTION FOR SUMMARY
 JUDGMENT [FILED 2/17/10] [#67]
 FILED FEBRUARY 19, 2010;
 CERTIFICATE OF SERVICE

[Caption Continues]

TSM PROPERTIES LLC, a Maryland
 limited liability company, and
 Z&A PROPERTIES LLC, a Maryland
 limited liability company,

[Non-Hearing Motion]

Plaintiffs,

vs.

LINDA LINGLE, in her official
 capacity as Governor of the State of
 Hawaii,

Defendant.

LINDA LINGLE, IN HER OFFICIAL CAPACITY AS GOVERNOR OF THE
 STATE OF HAWAII'S STATEMENT RE: PLAINTIFFS' EX PARTE MOTION
 [#70] TO ADVANCE THE HEARING DATE OF PLAINTIFFS' MOTION FOR
 SUMMARY JUDGMENT [FILED 2/17/10] [#67] FILED FEBRUARY 19, 2010

Defendant Linda Lingle, in her official capacity as Governor of the state of
 Hawaii ("Governor Lingle"), by and through her attorneys Mark J. Bennett,
 Attorney General, and Deborah Day Emerson, Girard D. Lau, David A. Webber
 and James C. Paige, Deputy Attorneys General, believes that the hearing date
 should not be advanced and that the May 10, 2010 hearing date currently
 scheduled by the Court is appropriate. That date will allow the parties sufficient
 time to complete any necessary discovery, for the defendants to file their respective

cross motions for summary judgment, and for the parties to otherwise fully brief this matter for the Court.

DATED: Honolulu, Hawaii, February 23, 2010.

MARK J. BENNETT
Attorney General

/s/ David A. Webber
DEBORAH DAY EMERSON
GIRARD D. LAU
DAVID A. WEBBER
JAMES C. PAIGE
Deputy Attorneys General

Attorneys for Defendant
LINDA LINGLE, in her official
capacity as Governor of the
State of Hawaii

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing LINDA LINGLE, IN HER OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF HAWAII'S STATEMENT RE: PLAINTIFF HRPT'S EX PARTE MOTION TO ADVANCE HEARING DATE was served on the following at their last known addresses:

Served Electronically through CM/ECF: Date: February 23, 2010
bvoss@legalhawaii.com
mshannon@legalhawaii.com
rengle@legalhawaii.com
cliff.sloan@skadden.com
david.foster@skadden.com
robryn.carr@skadden.com

jvandyke@hawaii.edu
sherrybroder@sherrybroder.com
fidell@lava.net
KSA@bfsi.com

DATED: Honolulu, Hawaii, February 23, 2010.

/s/ David A. Webber
Deputy Attorney General

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 rise with reservations in support of S.B. 2020- Relating to Real Property. Although I emphasize with the lease situation businesses are facing in Mapunapuna, Kalihi Kai and Sand Island, I am deeply concerned with the unintended consequences this legislation may have on commercial and industrial leases in Hawaii.

"This measure will extend Act 89, which interferes with the terms of existing contracts, and such alteration of commercial and industrial contracts is unconstitutional special legislation targeted at one landowner.

"I believe that the process of appraisals, mediation, and arbitration and as a last option the court system should be the appropriate venue for lease interpretation and contractual disputes. 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. 2020, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading by a vote of 41 ayes to 10 noes, with Representatives Berg, Coffman, Hanohano, Har, Keith-Agaran, C. Lee, Luke, Saiki, Takai and Wakai voting no.

At 3:27 o'clock p.m., the Chair noted that the following bills passed Final Reading:

- S.B. No. 2566, HD 2, CD 1
- S.B. No. 2019, SD 1, HD 2, CD 1
- S.B. No. 2817, SD 1, HD 1, CD 1
- S.B. No. 2256, SD 1, HD 1, CD 1
- S.B. No. 2169, SD 2, HD 2, CD 1
- S.B. No. 2020, HD 2, CD 1

Conf. Com. Rep. No. 71-10 and S.B. No. 1059, SD 2, HD 3, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1059, SD 2, HD 3, 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 rise in support of this legislation. Thank you. I rise in support of this legislation that establishes an illegal fireworks task force to stop the importation of illegal fireworks and explosives. While I recognize that this piece of legislation may not go as far as many would like, I believe that this is a positive step in the right direction to explore ways to stop the alarming trend of disruption and disrespect. For we must find a way to address the illegal fireworks issues. This problem has gotten out of hand for many districts.

"While numerous fireworks and explosives have created what some have described as war zone like sound. It's threatening to the health, the safety, and in particular the children. In fact, just this past New Year's Day two Wailuku children were badly burned when they were playing with fireworks and they had to be airlifted to Kapiolani Medical Center.

"But most importantly, I'm so deeply saddened that this has evolved into such a grave problem. As a person of Chinese descent, I know the great respect that we have for the origins of fireworks. A centuries old cultural tradition, it brings in good luck and it could not be more connected to filial piety and respect. Unfortunately, those that I believe are not doing it for cultural practices who most probably are not even of Chinese descent, have created a perversion of that custom and I find it reprehensible that this practice which originated as homage and connected to respect and piety has begun to be degraded to disrespect and dishonor.

"So I hope that one day fireworks will again be used responsibly as I remembered that they were in my childhood, and with respect of its origins

to culture and tradition that it once was. But until that day comes, this task force hopefully will help to protect the health and safety of our people. Thank you."

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

"Mr. Speaker, I wish to vote for this measure, but with some strong reservations. The reservation that I have is that it's becoming kind of a habit for the Legislature, whenever we find a difficult problem we punt it to the counties and say, 'Okay, I've done my job. I've washed my hands.' It reminds me of Pontius Pilate washing his hands and passing it on. It's your *kuleana* now. Not mine. I wish that the Legislature would take it upon themselves and either do the ban or make the laws even tougher, but I don't believe this is right, right now. Thank you."

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

"Just rising in strong support and I'd like to insert written comments. Mr. Speaker, I think it's sort of a minor miracle that we're almost passing two fireworks bills this Session. As far as a statewide ban is concerned, many of us would have been really happy to have a statewide ban passed, but that just wasn't possible. I think this is going to make a big difference if the City and the counties do act when we have the budget briefings. Mayor Hannemann indicated that he was very positive on fireworks control.

"So we hope this will make a difference and I think the task force also will look into the issues of illegal fireworks and actually the health and safety of the people of our islands. So thank you very much."

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

"Mr. Speaker, I stand in support of SB 1059 SD2 HD3 CD1. However, I would like to express my many concerns about the misuse of fireworks and why we must proceed with fireworks control.

"Mr. Speaker, the coming of the New Year should be a joyous occasion; however, for many in Hawaii, it is a time of trepidation and fear. Although this bill is not perfect, I am happy to see it go forward, because I would be embarrassed if we went through the session without any action on fireworks. However, a STATEWIDE BAN IS REALLY THE ANSWER TO OUR PROBLEM.

"Many of Hawaii's people have made it clear that they desire stricter enforcement of fireworks laws because the proliferation of fireworks in recent years has resulted in a degeneration of the New Year celebration, and public safety issues so severe that people are afraid to leave their homes. Fireworks have also put police and EMS personnel at risk for injury and it takes them away from crime fighting and assisting the ill and injured during the holiday.

"I have received multiple complaints from constituents for more than a month before and after the Holiday. Fireworks are being used in a manner that is disrespectful to communities and neighborhoods, with no regard to the severe health effects being experienced by children and seniors in particular.

"Some have said, 'No worry. It is only one night.' But the negative effects of fireworks hardly end when the festivities are over. Fireworks are composed of toxic chemicals that pollute our air, contaminate our drinking water, and leave residue in our watershed, harming plants and animals. Fireworks produce smoke and dust that contain residues of heavy metals and sulfur coal compounds. Particulate matter lingering for more than a week after the explosions may cause asthmatics and COPD sufferers to have to take medications such as bronchodilators, steroids, and antibiotics and in some cases IV fluids. These are expensive remedies.

"Fireworks also cause serious burns and injuries, which can be life threatening, fatal or cause permanent scars on the body and in the lungs. A report filed this year by the Health Department showed a significant increase in emergency room visits and injuries to people. A never-before-seen-influx of children injured by fireworks was seen this year in our ERs. Think of the injuries that were treated outside the ER or never reported.

"Another serious concern is the ear damage that may be happening to young children. Aerials produce levels around 150 decibels and the boom bombs are much louder. Studies show that small children's ears can be damaged by even short exposure to such noise. The noise can also trigger stress reactions in persons who suffer from combat related Post Traumatic Stress Disorder (PTSD).

"So you may say, 'It is tradition.' I don't believe tradition is something that hurts people; takes away their right to a peaceful holiday or causes fear and stress in pet animals. Many remember the past when fireworks were fun. That is no longer the case.

"Or would you say it's good for business? Yes, the big profits of offshore vendors and the illegal sales of aerials. At the same time, exploitation of children and the poor takes place.

"I was particularly touched by a letter, which appeared in the *Honolulu Advertiser*, written by Dr. Torrey Goodman, an emergency room physician, which I would like to submit to the Journal.

"To all legislators who did not have the courage to vote on a fireworks ban: I invite you to join me in a local emergency department on New Year's Eve. In 20 years as an emergency physician, I have never seen more severe injuries than I did this year. Tears of frustration and anger were how I greeted the New Year.

Please, dear legislators, explain to me why we are allowing items to be sold that result in young children literally being blown up and lit on fire, eyes damaged beyond repair and little hands curled into burnt claws.

How can you justify a child's screaming agony, lifelong scarring and a parent's worst nightmare as "cultural freedom"? Please spend one New Year's Eve in any local emergency room, and I promise you will have the courage to do what is right, and ban fireworks statewide."

"Mr. Speaker, we will ban the statewide use of fireworks one day. For now Hawaii's children and I must find at least some satisfaction in this small step in that direction. I support this bill and urge my colleagues to do the same. Thank you."

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

"Mr. Speaker, I'm just rising in opposition. I just believe that this is job killer number 17."

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 for Senate Bill 1059, Relating to Fireworks. This bill would establish an illegal fireworks task force to stop the importation of illegal fireworks and explosives. The bill would also allow counties to enact ordinances regulating fireworks that are more stringent than State law.

"Unfortunately, this bill does not address the major issue that could suppress the promulgation, dissemination, and use of fireworks illegally. A total fireworks ban, some experts would say, would certainly be an immediate solution to mitigate the illegal use of fireworks. However, how are our first responders supposed to enforce a total ban when they are unable to enforce the Fireworks Control Law as currently written? Providing our first responders with the necessary enforcement tools statutorily, and enacting uniform revisions to the Fireworks Control Law should be this Body's first step in tackling this divisive issue.

"For these reasons, I rise in support with reservations on Senate Bill 1059."

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

"Mr. Speaker, in opposition. Mr. Speaker, in regards to setting off fireworks in Hawaii, it is unfortunate that there are individuals who break the law, because their wrongdoings have given a lot of momentum for those in our community who want to ban fireworks completely. We already have stiff criminal penalties for those who disobey our fireworks laws. Now we are going further as there's another bill that we would take away real property of those who violate our illegal fireworks law, comparable to the law that takes away real property of those who manufacture illegal drugs.

"I support the section of the bill that would create an illegal fireworks task force to stop the importation of illegal fireworks and explosives. This was the original intent of this measure until it was hijacked by a House Floor amendment that added another section to the bill that would allow counties to enact ordinances regulating fireworks that are more stringent than State law, which could result in different laws in the various counties, making it more difficult to enforce. It is for this reason that I oppose the measure.

"We already had such a law in the past, allowing home rule ordinances differing with each other on what fireworks were legal. Once the fireworks were imported into the State there was a proliferation of smuggling the fireworks between the counties. This was the unintended consequence when that law was enacted. Rather, I believe our fireworks laws should be applied fairly throughout the State. Besides, criminal law is best enforced uniformly statewide as reflected in our criminal statutes and case law.

"As Chair of the Judiciary Committee, my duty is to inform this Body of any unintended consequences, and I also have the duty to ensure that the laws are fairly applied. I want to note that many of the complaints by Hawaii residents on fireworks are already illegal, such as individuals setting off fireworks outside of the times permitted by law. Currently fireworks can be only set off from 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day; 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and from 1:00 p.m. to 9:00 p.m. on Fourth of July; and also 9:00 a.m. to 9:00 p.m. as allowed by permits under Section HRS 132D-10.

"Other than these legal time slots, there is a ban on setting off fireworks. To resolve this problem with popping fireworks outside the times permitted by law we need to work together by abiding by the law, supervising our children and teenagers to do what's safe, and reporting to law enforcement agencies.

"A second concern for Hawaii residents regarding fireworks is the amount of illegal fireworks being exploded, especially the really loud ones that shake our homes and cars. The illegal fireworks task force will be mandated to look into ways we can prevent illegal fireworks from entering our State. And again, we must follow the law, make sure our children do the same, and report to law enforcement agencies on any use of illegal fireworks.

"Personally, I enjoy the beauty of fireworks and sharing the experience with my family and friends. It has been a tradition in Hawaii for many years for families to pop fireworks on New Year's Eve and New Year's Day for good luck for themselves, their loved ones, to bless their property, and to ward off evil spirits for the new year. I believe our current law regarding fireworks is already strong, but needs to be followed and better enforced by all of us, also with the assistance of our law enforcement agencies.

"I wish the original bill was left intact with the task force aimed at stopping illegal fireworks, but with the amendment allowing counties to enact more strict standards on fireworks than State law, I cannot support it. Thank you. I also want to insert written comments in opposition."

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in opposition. In regards to setting off fireworks in Hawaii, it is unfortunate there are individuals who break the law because their wrong-doings has given a lot of momentum for those in our

community who want to ban fireworks completely. We already have stiff criminal penalties for those who disobey our fireworks laws. Now, we are going further as there is another bill that would take away real properties of those who violate our illegal fireworks laws comparable to the law that takes away real property of those who manufacture illegal drugs.

"I support the section of the bill that would create an illegal fireworks task force to stop the importation of illegal fireworks and explosives. This was the original intent of this measure until it was 'hijacked' by a House floor amendment that added another section to the bill that would allow counties to enact ordinances regulating fireworks that are more stringent than State law, which could result in different laws in the various counties making it more difficult to enforce. It is for this reason that I oppose this measure.

"We already had such a law in the past allowing home rule ordinances differing with each other on what fireworks were legal. Once the fireworks were imported into the State, there was a proliferation of smuggling of fireworks between the counties. This was the unintended consequences when that law was enacted. Rather, I believe our fireworks laws should be applied fairly throughout the State. Besides, criminal law is best enforced uniformly statewide as reflected in our criminal statutes and case law. As Chair of the Judiciary Committee, my duty to this Body is to inform it of any bill's unintended consequences. My second duty is to ensure laws are fairly applied.

"I want to note that many of the complaints by Hawaii residents on fireworks are already illegal such as individuals setting off fireworks outside of the times permitted by law. Currently, fireworks can only be set off from 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; and from 1:00 p.m. to 9:00 p.m. on the Fourth of July; or from 9:00 a.m. to 9:00 p.m. as allowed by permit pursuant to Hawaii Revised Statutes section 132D-10. Other than these legal time slots, there is a ban on setting off fireworks. To resolve this problem of popping fireworks outside of the times permitted by law, we need to work together by abiding by the law, supervising our children and teenagers to do the same, and reporting to law enforcement agencies.

"A second concern for Hawaii residents regarding fireworks is the amount of illegal fireworks being exploded, especially the really loud ones that shake our homes and cars. The illegal fireworks task force would be mandated to look into ways we can prevent illegal fireworks from entering our State. And again, we must follow the law, make sure our children do the same, and report to law enforcement agencies on any use of illegal fireworks.

"Personally, I enjoy the beauty of fireworks and sharing the experience with my family and friends. It has been a tradition in Hawaii for many years for families to pop fireworks on New Year's Eve and New Year's Day for good luck for themselves and their loved ones, to bless their property, and to ward off evil spirits for the New Year. I believe our current law regarding fireworks is already strong, but needs to be followed and better enforced by all of us with the assistance of our law enforcement agencies. I wish the original bill was left intact with the task force aimed at stopping illegal fireworks, but with the amendment allowing counties to enact more strict standards on fireworks than State law, I cannot support it. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. I nickname this bill the 'Miller Lite' bill Mr. Speaker, because it 'tastes great, but is less filling.' And by that I mean that, while I applaud the intent of giving the counties home rule and the ability to decide whether or not on their own that they should go stricter than State law, I believe what's going to happen is most of the counties are probably just not going to really not take any action at all.

"So because of that I do see maybe this bill is more of a feel good measure than one that will be really be effective. But at the same time, maybe if one good thing can come out of this, because these laws are

enforced by the county police departments, that perhaps in looking at giving it back to the counties that there might be more of an effort by the counties to ensure that enforcement of existing State law actually happens. Thank you."

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

"In opposition, Mr. Speaker. I still believe that the way to deal with this is not piling up laws. For the last six years that I've been in this Chamber we've written so many laws, we've tackled it every year and put in heavier penalties, but yet we haven't done anything to improve the situation.

"I think this is an enforcement issue, Mr. Speaker. Until we have a commitment that we will police ourselves and commit to the enforcement of any laws that we pass in this Chamber, we're not doing anything. I would like the words of the Representative from Waipahu to be inserted as my own. Thank you."

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

Representative Aquino's written remarks are as follows:

"Mr. Speaker, I rise in support with reservation. First, I fully support the illegal fireworks task force component of this bill. The task force will look at the issues surrounding importation of illegal fireworks and make recommendations for planning and implementation. This is definitely needed as many residents have seen the proliferation of illegal fireworks on display in our neighborhoods throughout the calendar year.

"The area of concern for me is the county component, which would allow the counties to adopt and enact ordinances that would be stricter than State law. I am not sure if passing this onto the counties would be the most appropriate action at this time. Prior to current State law, counties throughout the State had various ordinances ranging from a total ban to allowing fireworks use that is currently classified as illegal. This lack of uniformity is what we may experience once again. Although I do agree that the last several years have spawned countless incidents of injuries, I believe that there should be a tougher commitment of enforcing current law before we move into this direction.

"For these reasons, I will be voting in support with reservations. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. Thank you and I'll just make some real brief comments. I think a lot of times in this Chamber we talk about home rule, but I don't think it's appropriate that we continue to pick and choose which ones we want to make home rule. I think it's something that is a statewide situation, that when we're going to establish a ban it shouldn't be different on Kauai than it is on the Big Island or Maui or anywhere else. Sometimes we've just got to stand up to the plate and take the jabs and make the decisions, and not pass it off to the counties. Thank you very much, Mr. Speaker."

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

"Thank you Mr. Speaker, I rise in support. Thank you. I'd like the written and the spoken words of the Vice Chair from Finance entered into the Journal as if they were my own. 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. 1059, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Final Reading by a vote of 44 ayes to 7 noes, with Representatives Cabanilla, Chang, Karamatsu, Manahan, Nakashima, Sagum and Tsuji voting no.

Conf. Com. Rep. No. 72-10 and S.B. No. 1105, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 1105, SD 2, HD 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 measure basically requires reports of studies and audits requested by the Legislature that are conducted by an Executive department or agency and requires the Chairs basically to schedule and hold a hearing or an informational briefing on these reports. Mr. Speaker, I find it a little odd that we're requiring our Chairs to have these informational briefings on the reports that we ask the Executive Departments to do.

"For one, the Administration, especially during this time, there are so many reports that come out, and they're tasked with running their departments and their deputy directors are tasked with helping them run their departments. We call them into informational briefings, I thought, when we need them to explain something or if we wanted to go further into a report or an audit or whatever it is. And we have the flexibility and we make these decisions on a weekly basis, off session and on session. So I just don't understand why we need to do every single report that comes in. And in a time when we're strapped for time and people are on furloughs and time is of the essence to get things done and people are scraping by just to be able to get their work done, that we want to call them into these informational briefings and not give the flexibility for the Chairs to call an informational briefing when they choose to do so.

"So I just think that we should kill this bill, Mr. Speaker. I know it's already at Final Reading and both sides agree with moving this bill forward. It's a lot of wasted effort and energy and we could use our time for our State much better than that. Thank you."

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, I just would like to note comments by Dr. Fukino, Department of Health, that the fiscal implications of this measure are potentially significant, but un-quantified additional workload for both the Executive and Legislative branches. The Legislative Reference Bureau made a comment that the primary change caused by this measure is that every agency will need to assume that it should prepare informational briefings or public hearings for all of its studies or reports.

"This will add another hurdle prior to the completion of any study being submitted to the Legislature at the time that those agencies are presumably preparing for budget hearings. So I think that this is an unwise measure, and it does have fiscal and time implications that are going to be detrimental. Thank you."

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

"Thank you, Mr. Speaker. In strong support. I read the bill. It went through the Legislative Management Committee. I don't interpret it the same way that the Representatives from Kailua and Red Hill have interpreted it. I think it just defines more the procedures for the Committee hearings. Thank you very much, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1105, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE HEARINGS AND PROCEDURES," passed Final Reading by a vote of 48 ayes to 3 noes, with Representatives Finnegan, Marumoto and Thielen voting no.

Conf. Com. Rep. No. 76-10 and S.B. No. 2231, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2231, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I just needed to request a ruling on a potential conflict of interest. My wife's law firm represents Better Place Hawaii which is in the process of setting up the infrastructure to support electric vehicles. Thank you," and the Chair ruled, "no conflict."

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 for Senate Bill 2231, Relating to Electric Vehicles. This measure troubles me since not one individual came forward that resided within a condominium, townhome, or planned community association to testify that a prohibition to install an electric car charger on their property existed within any particular residential community.

"No evidence was presented that the installation of electric car chargers was a troublesome or cumbersome task to achieve for those that own electric vehicles.

"Yet, with dozens of citizens coming forward that they are being denied the ability to display the American and state flags on their property within these same associations, this bill is a slap in the face to those that choose to honor the flag. The Legislature has its priorities mixed up when no one comes forward to state a problem exists, such as with the placement of electric car chargers, and the bill gets heard and passed, while treatment of the flag is dismissed and deemed not even worthy of a hearing in the State Senate. This is just wrong on all fronts.

"Furthermore, the bill places the association's membership with the burden of having to pay for the request made to install an electric car charger by the one member making the request. This forces members within an association who cannot afford an electric car to shoulder the expense of any costs incurred by a fellow member where a design request application fee is assessed to review the plans for installing an electric car charger device.

"With the absence of testimony and input from the community association industry to answer how costs to install electric car chargers are to be borne by non-electric car users and the lack of a problem or prohibition against electric car chargers being evident, I am voting with reservations on this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2231, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 83-10 and S.B. No. 2919, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2919, SD 1, HD 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. In opposition. The purpose of this measure is to require the Department of Public Safety to provide support for security at the Hawaii State Hospital, and require the Department of Health in collaboration with the Department of Public Safety to report to the Legislature with a plan for the provision of short and long term security for

the Hawaii State Hospital. It also states that this is to protect not only the community, but also to protect the people in the hospital.

"Mr. Speaker, through the testimony that has happened not only from the Department of Health, but also from the Department of Public Safety, what we did was appropriate money, as well as in this bill it states that they have State security officers. These positions are State security officers and do not have arrest powers. This means that these positions, these security officers, would still need to call HPD or sheriffs when assisting or addressing the situation of say, an escaped patient. Going at it alone could result in litigation without the protection afforded from law enforcement officers with arrest powers.

"Mr. Speaker, also what has happened in the past, the public safety, these positions are actually outside of the facility. So what they were saying is, even when there are disruptions within the hospital, that they're unable to help them within the hospital and that what you really need is the ability to have orderlies or trained orderlies to handle disruptions from the patients.

"So Mr. Speaker, as much as this bill I'm sure is needed for safety reasons, I'm not sure that we're getting to the actual problems that this bill tries to address. Thank you."

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

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in support of Conference Committee Report No. 83-10, S.B. 2919, S.D. 1, H.D. 1, C.D. 1.

"Mr. Speaker, the patients at the Hawaii State Hospital are considered to be in need of confinement, including forensic patients committed to institutionalization by the courts. Over the years there have been an average of six escapes annually and numerous assaults on the staff. The most recent escape being on December 3, 2009, of a forensic patient who was committed to the hospital in 2002, after allegedly committing kidnapping and sexual assault on a child. Additionally, the high occupancy rate at the hospital, coupled with the budget cuts and security reductions, have compromised and jeopardized the safety of both workers and patients at the facility, as well as the community and surrounding neighborhood.

"Mr. Speaker, this measure will require the Department of Public Safety to provide support for security at the Hawaii State Hospital. Additionally, the Department of Health may advise the Department of Public Safety on the appropriate level of security required. This measure further requires the Department of Health, in collaboration with the Department of Public Safety, to report to the Legislature on:

1. The plan, strategies, and timetable for ensuring the provision of appropriate levels of security at the Hawaii State Hospital over the long term; and
2. Short- and long-term strategies and plans to address the State's increasing and aging forensic population of the Hawaii State Hospital, including but not limited to facility needs, capacity issues, and other off-site options.

"For these reasons, I urge all my colleagues to vote yes on Conference Committee Report No. 83-10, S.B.2919, S.D. 1, H.D. 1, C.D. 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2919, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE HOSPITAL," passed Final Reading by a vote of 48 ayes to 3 noes, with Representatives Finnegan, Marumoto and Rhoads voting no.

Conf. Com. Rep. No. 84-10 and S.B. No. 2937, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2937, SD 1, HD 1, 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. This bill chisels away at democracy and I believe it lessens the confidence that people have in their government. The purpose of the bill is to deal with vexatious requests, if you can figure that one out. Vexatious requests. Which are actually requests of the public to the government for records for the purpose of casting dispersions on public figures, governments or our policies.

"In the last three years, particularly since our new President took office, there've been two conspiracy theories that have come to light. The '9/11 Truthers,' and more recently the 'Birthers,' who believe that the government has something to hide, and if they're just persistent they will break through and expose this. While I believe there are reasons why not to waste government time, bothering with these particular individuals, I think what we have to give up in terms of democracy is not worth that effort.

"The language of this bill says that an agency shall not be required to make government records available or respond to a person's subsequent duplicative request if the following three conditions are met. One, after conducting a good faith review in comparison of earlier request and the pending request, the agency finds that the pending request is duplicative or substantially similar in nature. Secondly, the pending request has already been responded to within the past year. And thirdly, the agency's response to the pending request would remain unchanged.

"In effect Mr. Speaker, what this bill does is give the agency the power to say no, and just because we said so, we're not going to answer to you. That doesn't make government look very astute, smart or responsive.

"Mr. Speaker, I refer to the *Star-Bulletin* editorial a few days ago, which basically said, 'The anti-Birther exemption would imperil public access.' Essentially it says that the legislation pending now before the Capitol, allowing the Department to ignore follow up requests would only feed the fringe and dangerously chip away at the Hawaii Sunshine Law.

"So basically if we pass this law and we send the signal out that Hawaii is shutting down any requests on anything, whether it's Birther or otherwise, and other people would take advantage of that because the Birthers have burrowed into this, and we say no because we said so. We're sending a very strange message.

"The editorial also goes on to say, 'Does it really concern so much time to answer several Birther emails a day especially since the Department should have devised a standard email request by now and can deal with the nuisance.' Mr. Speaker, you know how it is to push a button and respond to an email with the same boilerplate. That's simple, that's a management issue. That's not something that we should be dealing with here on the Floor and shutting our government down and sending signals to the rest of the nation.

"I cite Executive Order 13256 last year signed by President Obama. It summarily states that nothing can be so top secret as to remain indefinitely sealed forever from the public's eyes. Mr. Speaker, the public in the federal context is going to have everything revealed. What are we trying to do in this State? We're following a bad example. The late President Kennedy said that the very word secrecy is repugnant in a free and open society, and that we as a people inherently and historically have opposed secret societies, opposed secret oaths, and opposed secret proceedings. We decided long ago that the dangers of excessive, unwarranted concealment of pertinent facts far outweighed the dangers which they are cited to justify.

"So Mr. Speaker, let's not sacrifice the ultimate that is our freedom, our democracy, and the open flow of information for the sake of something

that's probably a temporary 'burr in the saddle,' a 'bee in the bonnet.' Mr. Speaker, some of my colleagues stand up and remind me, hey the Administration is strongly backing this bill, which they are, as it was strongly backing the other bill which I voted against, job killer number 16. Mr. Speaker, it's not whether the Administration likes it or doesn't like it, it's what's right for the people of Hawaii and that's why this bill is bad policy for the people of Hawaii. Thank you."

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

"Mr. Speaker, I stand in support. There are times when these vexatious requests come in and they actually stop open flow of information to the public that is requesting information from agencies. To say they're temporary, I would differ with that. I do think, and I don't know why, but there are people I'm sure every year, that get upset with something that might have happened to them and they become a vexatious requestor. Personally as a State Representative for the last eight years, twice in the eight years that I've been here, I've seen them be vexatious against certain agencies. When they got mad at an agency they would start sending in these requests for information and they would continue, and continue, and continue. It was actually an obstruction to the agency trying to help the public.

"I applaud the attempt to try to solve this problem. It sounds easy on the surface, but it's not. I think it's very complicated. I think the previous speaker did point out the three criteria on what qualifies as a vexatious requestor. I applaud the Committee for putting this bill together and moving it forward. Thank you."

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

"Thank you very much, Mr. Speaker. In support. I will stand and support our Governor on this. The editorial kind of misses the point. I mean, they make it sound like, 'Oh, just a couple of emails come in every day from the Birthers asking for information.' I talked to the Director of the Department of Health. It's a far cry from that, Mr. Speaker. They're inundated with hundreds of them, all from the same people over, and over, and over again. Even those who get the information, they come back because they don't believe it, Mr. Speaker.

"We've RIFed positions in the government and as a result with all of the people taking up time repeatedly answering these requests, they're not able to answer other legitimate requests that people are making for information. So what's happening is a very select few who meet this three point criteria that the Majority Floor Leader spoke of are basically paralyzing the government and giving the regular citizens the inability to get timely access to records that they need, Mr. Speaker.

"So I stand in support of this bill because it's not just a few emails here and there. It's just an uninterrupted flow of old requests over, and over, and over again. Even when they get the information, if they don't like it, they come back over, and over, and over again. I think it's time we put the public and their needs ahead of those of a few individuals who continue to just weigh the system down. Thank you, very much."

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

"In opposition. I'd like to put some written comments in the Journal. I request to include in the Journal an article written by Cynthia Oi in the *Star-Bulletin*, Sunday 4/25. Thank you."

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

"I rise in opposition to SB2937, SD1, HD1, CD1. The *New York Times* reported today that a high percentage of people share the anti-birthers views. Hawaii should not forestall any requests, even frivolous and harassing, through anti-information tactics.

"Requests to the government should be handled seriously, as almost 99 percent are from the mainland. Many of these people may have been or will be tourists visiting our islands.

"Handling the anti-birther requests is a public relations problem—not a legal problem. We should treat each request seriously and not with disdain, as is sometimes the way of local bureaucrats. With the computer, it is easy to generate replies—including a reply that says we have already answered your request, but in case you did not see it, here's a copy. We should not pick a fight by using words like, "we already told you."

"Public relations experts could craft a campaign to help the people in the Health Department answer the inquiries. We should always be courteous and positive in replying to the public. I would like permission to insert the article written by Cynthia Oi in the Sunday, April 23, 2010 *Star Bulletin*."

"UNDER THE SUN

Arizona politicians join the 'birther' movement
By Cynthia Oi

POSTED: 01:30 a.m. HST, Apr 25, 2010

Like Hawaii, Arizona's natural wonders attract lots of tourist types. There's Monument Valley, the Painted Desert, the Petrified Forest and the lesser-known Canyon de Chelly.

The last is overshadowed by its cousin, the Grand Canyon, which has been made unappealing by swarming hordes, kind of like what's happened at Ka Iwi after the state bought a piece of the coastline to "preserve" it from development and instead built out the once-quiet, semi-hidden treasure into yet another stop on the ever-growing, invasive list of sightseeing stations.

But I'm getting off point. As I said, Arizona's generally a nice place. Nonetheless, it, too, has a legislature made up of politicians prone to getting wacky like our homegrown bunch.

What happens in Phoenix usually stays in Phoenix or within the confines of the state's borders. However, it seems Arizona's gone birther and as a result could bleed its wacky thousands of miles over land and sea to our fair shores.

You see, 31 of Arizona's House members aren't sure that Barack Obama is an American. They passed a bill over the objections of 29 of their rational colleagues to require the president to show his birth certificate if he chooses to run for a second term in 2012. If not, his name won't be on Arizona's ballot.

Those legislators aren't the only doubting Thomases and Thelmas. Although 58 percent of Americans in a recent New York Times/CBS poll said correctly that Obama was born in the United States, 20 percent believe he wasn't and 23 percent weren't sure.

And there's no convincing these people otherwise. Some are sure he was born in Kenya because they've seen photographs of a sign somewhere in that country, welcoming visitors to his birthplace.

Tell them that anyone can slap up a sign in Kenya, Kyrgyzstan, Korea (North and South) or even the Arizona town of Kingman, but that won't change their minds.

You can tell the birther-Arizonans that even if their Senate approves the bill and gets their governor to sign it, their measure won't amount to a hill of beans in either canyons Grand or de Chelly because federal laws rule in presidential elections.

The display of wacky has a number of Arizona legislators mortified. Said Rep. Chad Campbell, "We're becoming a national joke."

If the words sound familiar, it's because many island lawmakers and other elected officials have uttered them. With Hawaii's image tainted by their deeds and misdeeds, they need no extra help from the birther crusade.

However, a counteroffensive bill being considered here isn't the answer. The measure that would allow state agencies to stop responding to

repeated information requests—like the demands for the president's birth certificate that flood the Health Department daily—could result in denying legitimate petitions.

Here's a suggestion. Print the website posting of Obama's birth certificate. Dress it up with photo of a rainbow over Diamond Head with tiki torches and Waikiki beach in the foreground. Slide it into a kitschy frame and send it with great ceremony and a plastic lei to the wacky wing of the Arizona legislature. Then direct birthers to get copies from them. The contrived nature of the document should be convincing to all screwballs. Or we could put up a sign.

Cynthia Oi can be reached at coi@starbulletin.com."

Honolulu Star-Bulletin

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

"Thank you, just with reservations with the words of the Representative from Hawaii Kai entered as my own. I think that this is one of those measures that you can see that we need to pass some bills to make sure that we're doing our job, that the agencies are doing their job. But we are in a very dangerous, dangerous slope if it gets out of control. You don't want to have people who cannot get information they're entitled to. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in opposition. I've been listening to the debate and in fact, I was going to vote up, but I changed my vote to no. I don't think this bill is going to stop vexatious requests. In fact, if we don't do anything in replying to these requests I think you're going to 'stir the sleeping beast' and they'll get more and more. Because what this bill does is basically says we shall not respond to the same request. So if they start getting upset as the Majority Floor Leader has already mentioned, they can turn around and start making any types of requests.

"I think it might just be easier to identify that this is a Birther requesting the same information and to send that email the same response. We do it in our offices. On many occasions we get emails on the same topic and what do we do? We don't investigate every single email. We just send them the same response. We just change the name. I would suggest that we take a look at this one more time. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support. Very briefly, I think people are really misreading this entire bill and this entire issue. Vexatious request was actually something that was in the original bill. Nowhere is that ever found in the current bill, so I really wish people would stop characterizing it that way.

"What they don't understand is the current process under the Uniform Information and Practices Act, Chapter HRS 92F. Under that Chapter, there is an affirmative duty on behalf of the agencies to respond to every single request. They must do so within 10 days, otherwise they must also get an extension. At that point any person can also request an opinion from the Office of Information Practices to compel the production of the documents. And then finally they even get a right of remedy under 92F-15.

"So anybody that makes a request has many, many opportunities to get valid requests fulfilled. However, there are many, many times when an agency responds and then the next day they get the same response and the same response and the same response. And guess what the agency has to do? Every single response they are affirmatively required to respond. That is a complete waste of time. All we've done in this bill is say, if you gotten a response in one year, that's it. If something changes we will give you the documentation. But if nothing changes there's no need to respond.

"I really wish people would read the bill and understand the entire Chapter and its structure before they talk about the eroding of democracy and the slippery slope because really that's what the UIPA is about. And if you have not done a request, I would suggest that you do one first before you start criticizing the bill and its process. Thank you."

Representative Souki rose and stated:

"Yes, Mr. Speaker, I'm vexed by this bill. I call for the question."

At this time, Representative Souki called for the previous question.

At this time, the Chair stated:

"The question has been called. If you would like to submit written comments to the Journal, please do so, on CCR No. 84-10, whether you are up or down."

Representative Ward rose and stated:

"Mr. Speaker, just a brief rebuttal."

The Chair addressed Representative Ward, stating:

"The question has already been called."

Representative Ward: "Oh, I thought he was making a joke. He was serious. I wanted to comment on those comments that think that we haven't read the bill and that we're not serious about it. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2937, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Final Reading by a vote of 41 ayes to 10 noes, with Representatives Berg, Brower, Finnegan, Hanohano, M. Lee, Marumoto, Morita, Rhoads, Takai and Ward voting no.

Conf. Com. Rep. No. 85-10 and S.B. No. 2565, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2565, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support. I would just like to refer to my Third Reading comments on this bill. Thank you." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2565, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 88-10 and S.B. No. 2897, SD 2, HD 3, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2897, SD 2, HD 3, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, in support with reservations. I just want to thank the introducer of this bill, as well as the individuals that backed it. My 'advocacy hat,' if I had it on all the time, would probably have me vote up on every bill. But for this bill, I'm putting on my 'lawmaker hat' and 'attorney hat,' and I take it the law as a whole. So I rise in support with reservations.

"The purpose of this bill is to make further amendments to an ignition interlock statute that will come into effect next year. I will agree it needed corrections to the statute. However, the insertion of a criminal sanction

against the exercise of a privacy right is beyond fine tuning of the statutory provisions for the ignition interlock law.

"Criminalizing the refusal to submit to a test infringes upon important personal rights that in the past, this Legislature has been mindful of protecting. Under Hawaii case law, unless injury or death is involved, the person being requested to give a breath, blood, or urine sample for a DUI investigation has a right to refuse as set out in statute. This is clearly set out in the case of State of Hawaii vs. Entrek. And in prior consent statute, HRS 291E-11 states that a person is deemed to have given consent subject to this part to a test or test approved by the Director of Health of the person's breath, blood or urine for the purpose of determining alcohol concentration or drug content of the person's breath, blood or urine.

"Why do we have an implied consent for accidents not involving injury or death? It is because actual consent is lacking. In light of the fact that actual consent is lacking and no injury or death has occurred, the policy has been set out in statute that a person may withdraw actual consent. The State requires that the arrested person be informed by a law enforcement officer that the person may refuse to submit to a testing.

"However, there are clear sanctions for refusal. Under HRS 291E-65 subjects the person refusing to license suspension. This will be in addition to requirements of the application of the ignition interlock device. These civil penalties are not sanctions for crimes. This measure makes criminals of people who exercise their right to refuse. First the statute gives the people the right to refuse, then the statute strikes people down for the exercise of their right. This measure results in situations where the arrestee is convicted of refusal when the test result would have indicated that the arrestee was not guilty of intoxicated driving. There is no other criminal law in Hawaii like this. For these reasons I have reservations on this measure.

"And Mr. Speaker, I may be the last of the line of Judiciary Chairs to oversee the implied consent law. As mentioned earlier, as your Chair of Judiciary Committee my duty to this Body is to inform it of any bills unintended consequences and my second duty is to ensure laws are applied fairly. Thank you, very much."

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

"Thank you, Mr. Speaker. In strong support. I can appreciate the comments from the previous speaker, but I think it's very clear that we need to really outline for this Body exactly what we're talking about here when we talk about implied consent.

"First of all, I'd like this Body to understand that pursuant to a US Supreme Court case in 1966 called Schmerber vs. California. This was a seminal case in which blood was forcibly drawn from a DUI crash suspect. While the case is better known for the search and seizures issues, it discussed the privilege against self-incrimination. The US Supreme Court said, it could not be denied that it required petitioners to submit to the withdrawal and chemical analysis of his blood, the State compelled him to submit to an attempt to discover evidence that might be used to prosecute him for a criminal offense.

"He submitted only after the police officer rejected his objection and directed the physician to proceed. The officer's direction to the physician to administer the test over petitioner's objection constituted compulsion for the purposes of the privilege. The critical question then is whether petitioner was thus compelled to be a witness against himself.

"It is clear that the protection of the privilege reaches an accused communication, whatever form they are and whatever form they might take, and the compulsion of responses which are also communications, for example, compliance with a subpoena to produce ones papers.

"The court goes on to further note, on the other hand both federal and state courts have usually held that it offers no protection against compulsion to submit to fingerprinting, photographing, or measurements, to write or speak for identification, to appear in court to stand, to assume a stance to walk, or to make a particular gesture. This distinction which has emerged often expressed in different ways is that the privilege is a bar

against compelling communications or testimony, but that compulsion which makes a suspect or accused a source of real or physical evidence does not violate it.

"Furthermore, the Hawaii Supreme Court has also opinioned on this issue regarding the distinction between testimonial and physical evidence in assault incrimination challenge. The Hawaii Supreme Court noted that appellant argues that the probation condition of his drug testing and his admission of drug use during the meeting with his probation officer violated his right against self-incrimination. This argument is without merit. As appellant fails to recognize the key distinction courts have made between testimonial and physical evidence obtained from the defendant. The privilege against self-incrimination is not necessarily implicated whenever a person suspected of criminal activity is compelled in some way to cooperate in developing evidence which may be used against him.

"So we need to make something clear, Mr. Speaker. Essentially, because of this seminal case, this US Supreme Court case, the power of police, they can forcibly extract a blood sample or any type of chemical sample from the defendant if they're suspected of DUI, and that's why many states created something called these implied consent laws. These laws deem that a person has consented to testing assuming probable cause and an arrest for DUI. So Hawaii's laws include an implied consent which basically means if you drive on our roads, you agree to submit to the test. The implied consent is currently on the bottom of the driver's license application.

"So in order to avoid the police physically confronting people to make them take the test, we in Hawaii had included this statutory right to refuse a test which results in the driver being able to drive at all during the revocation period, unlike people who do take the test and get a conditional license. So it was always intended to be a disincentive for those who refuse.

"I feel that this bill really comports of what's happening even at the federal level. Before me here is the National Highway Traffic Safety Administration's report that was produced in September 2008 to Congress, and specifically this report talks about refusal of intoxication testing. The report draws from several studies examining various aspects of refusals or non-testing in cases of DUI arrest or crashes.

"The National Highway Traffic Safety Administration recommended to Congress that states should have either some strong laws against test refusals, strong penalties for test refusal, or simply eliminate legal provisions that allow arrested suspects to refuse to take a blood alcohol content test.

"So in summary Mr. Speaker, this bill really is the final piece of our ignition interlock law. As this Body will recall in 2008 we signed the first ignition interlock law into place which created the ignition interlock task force promulgated as Act 171."

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

Representative Har continued, stating:

"Thank you. This legislation really implements the final pieces of the recommendation from the task force. Notably, it makes it illegal to tamper or circumvent with the ignition interlock device. It makes it a petty misdemeanor to refuse to submit to a breath, blood or urine test. It does repeal the indigency fund and it requires now that the offender be required to incorporate that into his pricing for the indigency fund.

"So again this has been three years coming, and assuming that the Governor signs this into law, on January 1st 2011 the ignition interlock will finally become a reality in this State and will help us to begin saving lives.

"Finally Mr. Speaker, I do want to thank the Transportation Chairs of both the House and the Senate, the Judiciary Chairs in the House and the Senate, including our former Representative Tommy Waters, and finally

the Finance Chair, as well as you Mr. Speaker, for being very supportive of these measures throughout the past three years. Thank you."

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

Representative Karamatsu's written remarks are as follows:

"I rise in support of this measure, but with reservations. The purpose of this bill is to make further amendments to an ignition interlock statute that will come into effect next year. I agree with making needed corrections to the statute.

"However, the insertion of a criminal sanction against the exercise of a privacy right is beyond "fine tuning" of the statutory provisions for the ignition interlock law. Criminalizing the refusal to submit to a test infringes upon important personal rights that in the past this Legislature has been mindful of protecting. Under Hawaii case law, unless injury or death is involved, the person being requested to give a breath, blood, or urine sample for a DUI investigation has a right to refuse as set out in statute. This is clearly set out in the case of State of Hawaii v. Entrekim, 98 Haw. 221 (2002).

"Under our implied consent statute, HRS §291E-11 states that a person is deemed to have given consent, subject to this part, to a test or tests approved by the director of health of the person's breath, blood, or urine for the purpose of determining alcohol concentration or drug content of the person's breath, blood, or urine. Why do we have an implied consent for accidents not involving injury or death? It is because actual consent is lacking. In light of the fact that actual consent is lacking and no injury or death has occurred, the policy has been set out in statute that a person may withdraw actual consent. The statute requires that the arrested person be "informed by a law enforcement officer that the person may refuse to submit to the testing." However, there are clear sanctions for refusal. HRS §291E-65 subjects the person refusing to license suspension. This will be in addition to requirements of the application of the ignition interlock device. These civil penalties are not sanctions for crimes.

"This measure makes criminals of people who exercise their right to refuse. First, the statute gives the people the right to refuse. Then, the statute strikes people down for the exercise of their right.

"This measure will result in situations where the arrestee is convicted of refusal when the test result would have indicated that the arrestee was not guilty of intoxicated driving. There is no other criminal law in Hawaii like this. For these reasons, I have grave reservations for this measure.

"Mr. Speaker, I may be the last of a line of Judiciary Chairs to oversee the implied consent law. As mentioned earlier, as Chair of the Judiciary Committee, my duty to this Body is to inform it of any bill's unintended consequences. My second duty to is to ensure laws are fairly applied. 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. 2897, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Final Reading by a vote of 51 ayes.

At 4:11 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 1059, SD 2, HD 3, CD 1
 S.B. No. 1105, SD 2, HD 1, CD 1
 S.B. No. 2231, SD 1, HD 2, CD 1
 S.B. No. 2919, SD 1, HD 1, CD 1
 S.B. No. 2937, SD 1, HD 1, CD 1
 S.B. No. 2565, SD 1, HD 1, CD 1
 S.B. No. 2897, SD 2, HD 3, CD 1

LATE INTRODUCTIONS

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

Representative Marumoto introduced Ms. Carol McNamee, founder of MADD Hawaii.

ORDINARY CALENDAR**UNFINISHED BUSINESS****Conf. Com. Rep. No. 89-10 and S.B. No. 2346, SD 1, HD 1, CD 1:**

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2346, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, on Conf. Com. Rep. No. 89-10, I do have some comments with reservations. Thank you Mr. Speaker, I rise with reservations on this measure that makes various reforms to improve the operations of the Hawaii Teacher Standards Board, HTSB.

"As stated in the Committee Report, this measure is in response to a 2009 audit that found several problems with the HTSB but it stopped short of the Auditor's recommendations to, 'transfer responsibility for administering a teacher license program from the Hawaii Teacher Standards Board to the Board of Education.'

"I support many of the provisions of this bill, including the delegation of more power and authority to the Executive Director of the Board. That should improve its operations. However, my objection is that this measure does not do anything to address the way teachers are licensed or our ability to recruit new teachers. This is an area that is in desperate need of reform.

"In our Race to the Top application, Hawaii scored just eight points out of the possible 21 points in the area of providing high quality pathways for aspiring teachers and principals. Our poor performance in this area is one of the reasons why we were unable to obtain the \$75 million that we applied for in the first round of the Race to the Top funds. We did address part of this problem with another piece of legislation providing alternative certification for principals, but we did not provide an alternative route for teachers. That needs to change if we hope to do better in later rounds of Race to the Top and improve the way we deal with teacher certification. 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. 2346, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Final Reading by a vote of 48 ayes, with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 90-10 and S.B. No. 466, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 466, SD 2, HD 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'm voting in opposition with just short comments, Mr. Speaker. I was going to let this pass with a reservations vote, but instead I changed it to a no vote after I read the part that says 'government contractors or government employees are exempt.' Mr. Speaker, what's 'good for the goose is good for the gander.' Just because we're government we can go ahead and make noise and contractors that are small businesses cannot because they're employed by someone else? Mr. Speaker, that to me is ridiculous, and we should kill this bill just because of 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. 466, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO POLLUTION," passed Final Reading by a vote of 45 ayes to 3 noes, with Representatives Finnegan, Herkes and Manahan voting no, and with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 91-10 and S.B. No. 532, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 532, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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. The Chair of the House Judiciary Committee has apprised us repeatedly today that his role, in large part is to guard against legislation that poses "unintended consequences." (See e.g., comments to Conference Committee Report No. 66-10, S.B. 2169; CCR No. 88-10, S.B. 2897). I would hope that this standard is applied to this measure because the unintended consequences of S.B. 532 are extraordinary. This measure is overbroad and is not tailored to address the concerns raised by its proponents, i.e., to allow homeowners to protect their residences and family members.

"This measure is the product of the National Rifle Association (NRA). In its supportive testimony at the Judiciary Committee hearing, the NRA stated that this measure is necessary because "The time has come to take back our island." The tone of the NRA testimony is telling of the unintended consequences of this measure.

"All members of this Body support effective and proven crime prevention measures. However, S.B. 532 does just the opposite. It will heighten violence and the unnecessary use of force in our community. A few of the problems with this measure are as follows.

"First, it sends the message that the use of deadly force will be condoned, even if it's used only to protect property.

"Second, this measure will allow the use of deadly force on all forms of property, not simply residences. S.B. 532 applies to private and public property. Any owner or any person who is "authorized" to be on the property is covered by this measure. By way of example, this includes hotel guests, shoppers at shopping centers, sidewalk pedestrians, Aloha Stadium spectators, and roadway drivers.

"Third, this measure does not require that the purported crime actually be committed. S.B. 532 actually creates an incentive for persons to inflict fatal wounds. This is because S.B. 532 provides that if a suspect survives, then the shooter must prove that an enumerated crime was being committed. If the suspect is fatally wounded, then there is no such requirement (all that is required is a "reasonable belief" that an enumerated crime was being committed).

"Hawaii should not follow the lead of states such as Alabama, Mississippi, Montana, North Dakota, Texas and Utah, which have adopted similar legislation. Nor should the Legislature give such deference to the NRA. This measure could and should have been drafted in narrower terms; the starting point for analysis should be the Hawaii Penal Code, which includes self-defense provisions.

"This measure has significant unintended consequences. We should heed the admonition of the Judiciary Committee Chair and not enact this measure into law. Thank you, very much."

Representative C. Lee 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 support of the measure, stating:

"In strong support, written comments."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise in strong support for Senate Bill 532, Relating to Limiting Civil Liability. This bill will limit the civil liability of property owners for damages to persons injured or killed on premises while committing certain felony offenses.

"Mr. Speaker, this is a tough on crime bill. A person choosing to defend themselves, their family and their property by force should not be prone to civil liability. The victim should not be treated as a criminal. The victim may sometimes choose to make a split second decision if they perceive a criminal act taking place as life or death situation. Oftentimes, this decision must be made prior to the police arriving at the scene of a crime.

"Those opposed to this measure should put themselves in the shoes of the victim. Imagine sitting at home one night, watching television, and suddenly an intruder breaks into your home pointing a weapon, threatening to kill you and your family. You choose to stay seated and allow the intruder to burglarize your home, and commit other unspeakable acts, and then the intruder murders you and your family. The intruder leaves your home, and the police arrive 5 minutes later.

"What if the victim chose to act instead and fires a weapon possibly injuring or killing the intruder? As the law is currently written, the intruder or their family can sue the victim for damages, just because the victim was protecting their home, their family, and their possessions.

"Mr. Speaker, this bill will protect the victim, and I stand in strong support."

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

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in support. Mr. Speaker, under current law, when faced by a threat on one's life, one does not have a duty to retreat in one's home or office. Senate Bill 532, Senate Draft 1, House Draft 1, Conference Draft 1 goes further where an owner of real property or an agent of the owner lawfully on the premises by consent of the owner, shall not be liable to any perpetrator engaged in any of the felonies involving violence as set forth in this bill for any injury or death to the perpetrator that occurs upon that property during the course of or after the commission of such felony, or when a reasonable person would believe that commission of a felony as set forth in this bill is imminent. However, if a perpetrator is injured, the perpetrator must be charged with the criminal offense and convicted of the criminal offense or of a lesser included felony or misdemeanor. Further, the limitation of civil liability applies only when the perpetrator's conduct in furtherance of the commission of a felony specified in the bill proximately or legally causes the injury or death.

"I have to admit that I struggled over this bill for the past two Legislative Sessions. I will go over the internal struggle I dealt with and why I came to agree with this Conference Draft before us. Last year, this bill stalled in Conference since there was a stalemate between my counterpart in the Senate and myself. I drafted the House Draft 1 as narrow as I could with the intent to prevent any unintended consequences as best as I could. In the House Draft 1, the limitation of civil liability only applied to the owners. In contrast, the Senate defined an "owner" to mean owner, the occupant, tenant, or anyone authorized to be on the property by the owner or the occupant, including a guest or a family or household member, employee, or agent of the owner lawfully on the premises.

"Second, the House version limited civil liability to only apply when the perpetrator who is injured is convicted of a felony. It did not apply to when a perpetrator is killed. In contrast, the Senate version had limited liability for any injury or death to the perpetrator and had no requirement of a criminal conviction of the perpetrator.

"Third, the Senate version stated that the owner did not have a duty to warn the perpetrator of the felony and that he or she is armed and ready to cause bodily harm or death. The House version had no similar language. Finally, the last substantive difference is the Senate version had an additional subsection that did not limit the liability of an owner for injury or death caused to individuals other than the perpetrator of the felony.

"In this Conference Draft, I agreed to the Senate to not limit civil liability exclusively to owners, or private owners, for a couple of reasons:

1. The owner is not always the person residing on the property or needing to defend it. For example, a renter or a significant other is not the legal owner of the property, but may rise to his or her own defense while residing there; and
2. Private persons are not the only ones holding title to property. Government housing projects, for example, are owned by the State and we would not want to prevent lessees of government property to be forbidden from protecting themselves in their own homes.

"When I was younger, I trained in Aikido, the Japanese martial art that teaches one the emphasis on self-defense. When attacked, one uses the force of one's attacker to his or her advantage to subdue him, thus avoiding killing him. However, even with great discipline, under a very difficult situation, one's self defense force may be too great, which may result in the unintended death of one's attacker. Killing another should be avoided at all costs, but even with that train of thought in mind, the death of the perpetrator could still occur.

"After much thought and analysis, I agreed to the Senate amendment to limit civil liability for an owner or agent of an owner who injured or killed a perpetrator upon the owner's property during the course of or after the commission of a felony listed in this bill. On the other hand, the Senate agreed to the House version requiring a criminal conviction of an injured perpetrator in order to trigger the limitation of civil liability for the owner or agent of the owner.

"I agreed to the Senate Draft 1 language, which the House did not have that says that the limitation of liability shall not be affected by the failure of the owner to warn the perpetrator of the felony and that the owner is armed and ready to cause bodily harm or death. In my rationale, when one is faced by an imminent threat of harm, one has to make a split decision to save his or her life or the lives of others. The time it takes one to warn the perpetrator of the felony and that he or she is armed and ready to cause bodily harm or death could result in the owner's death and the death of those around him or her.

"For the last difference between the House and Senate on this bill, the Senate Draft 1 had an additional subsection that did not limit the liability of an owner for injury or death caused to individuals other than the perpetrator of the felony. I agreed with this safeguard because an owner should still be liable for negligently injuring or killing an innocent third party or a third party of a lesser crime.

"Finally, I agreed to this Conference Draft of Senate Bill 532 because there is a list of criteria an owner or agent of an owner in real property must meet in order to qualify in limiting his or her civil liability. These safeguards bring balance in protecting the perpetrator. The following are the criteria needed to limit civil liability for an owner or agent of an owner:

1. The perpetrator must be engaged in one of the following felonies, which are higher level felonies that mostly involves violence:
 - a. Murder in the first or second degree;
 - b. Attempted murder in the first or second degree;
 - c. Any class A felony as provided in the Hawaii Penal Code, including any attempt or conspiracy to commit a crime classified as a class A felony;
 - d. Any class B felony involving violence or physical harm as provided in the Hawaii Penal Code;
 - e. Any felony punishable by imprisonment for life;
 - f. Any other felony in which the person inflicts serious bodily injury on another person; and

- g. Any felony in which the person personally used a firearm or a dangerous or deadly weapon.
2. The limitation on liability applies only when the perpetrator's conduct in furtherance of the commission of a felony specified in this section proximately or legally causes the injury or death.
3. This section does not limit the liability of an owner that otherwise exists for:
- Willful, wanton, or criminal conduct; or
 - Willful or malicious failure to guard or warn against a dangerous condition, use, or structure; or
 - Injury or death caused to individuals other than the perpetrator of the felony.

"It is for all these reasons that I support this final version of Senate Bill 532. Thank you."

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

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 532, SD 1, HD 1, CD 1. The purpose of this bill is to allow the people of Hawaii to defend themselves against criminals in their homes or places of business. The general public policy is not to allow people to use deadly force when they are protecting property. However, unlike the case of a mugger stealing a briefcase, or a thief stealing a car, when a person commits a crime in your home or place of business and you are there, chances are that you may become a victim of a violent crime. This bill makes it so that you don't have to wait for that criminal to violate you or your family before you can take action. In situations like this, we shouldn't ask that a person put himself or herself at unnecessary risk and require that he or she try to escape from the property without injuring the criminal. This bill allows homeowners to defend not just their homes, but themselves and their families without fear of later legal retribution by the State or the intruder.

"The Conference Draft before you provides adequate safeguards for the lives of the people of Hawaii. Although we are allowing real property owners to defend their homes with deadly force, it is important to note that there are restrictions on this ability. Chiefly, it is only when an injured intruder is later found guilty of having been in the process of committing a crime, that there will be an absolute shield against civil liability for the defender. I believe that this qualification will prevent abuses of this important law while still providing protection for those who choose to forcibly defend not only their home, but also their families."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 532, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITING CIVIL LIABILITY," passed Final Reading by a vote of 37 ayes to 11 noes, with Representatives Belatti, Berg, Hanohano, Keith-Agaran, Luke, Morita, Nakashima, Nishimoto, Saiki, Takai and Wakai voting no, and with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 93-10 and S.B. No. 2371, 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. 2371, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITED BENEFIT HEALTH INSURANCE," passed Final Reading by a vote of 48 ayes, with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 97-10 and S.B. No. 930, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 930, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I need a ruling on a potential conflict. I am a Department of Health volunteer for the Medical Reserve Corp and this will be covering the liability. Thank you," and the Chair ruled, "no conflict."

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

"A similar request for a ruling for a potential conflict. My husband sometimes volunteers in this capacity," 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. 930, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES," passed Final Reading by a vote of 48 ayes, with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 100-10 and S.B. No. 2220, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2220, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I would like a ruling on a potential conflict. I have contractors in the family," 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. 2220, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSTRUCTION SITES," passed Final Reading by a vote of 48 ayes, with Representatives Awana, Sagum and Souki being excused.

Conf. Com. Rep. No. 101-10 and S.B. No. 2399, 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. 2399, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MIXED MARTIAL ARTS," passed Final Reading by a vote of 48 ayes, with Representatives Awana, Sagum and Souki being excused.

At 4:19 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2346, SD 1, HD 1, CD 1
 S.B. No. 466, SD 2, HD 1, CD 1
 S.B. No. 532, SD 1, HD 1, CD 1
 S.B. No. 2371, SD 2, HD 1, CD 1
 S.B. No. 930, HD 2, CD 1
 S.B. No. 2220, SD 1, HD 2, CD 1
 S.B. No. 2399, SD 1, HD 1, CD 1

Conf. Com. Rep. No. 105-10 and S.B. No. 1062, 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. 1062, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 106-10 and S.B. No. 2883, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2883, 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. This bill makes it an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee legitimately uses accrued and available sick leave.

"Proponents of this measure would claim that by limiting the scope of this measure to employers with 100 or more employees and a collective bargaining agreement, that it does not significantly burden or adversely impact business. Additionally, this measure's proponents maintain that this bill is all about protecting employees who legitimately use sick leave.

"However, this bill addresses a matter that is subject to collective bargaining and should not be legislated. If you don't win at the bargaining table, you shouldn't come to the Legislature to renegotiate your deal through legislation. This bill takes away the right and prerogative of management to run their organization in a manner they see fit. And as the State Department of Human Resources Development and the Judiciary testified, the passage of this bill will, in effect, destroy the balance of negotiations and inhibit future negotiations, as well as force employers to indefinitely continue the employment of such employee who is determined to be medically unable to perform the duties of the position for which the employee was hired. The employer would be forced to either hire replacement employees, or burden other staff with the employee's share of the work, which then in turn adversely affects all public service.

"Lastly Members, the term 'legitimately' in the proposed section (b) conflicts directly with criteria set forth in the Bargaining Unit 1 and 10 collective bargaining agreements, which authorize the public employers to determine patterns of absences and institute disciplinary actions for the abuse of sick leave. By undermining these criteria, we are taking away an important and necessary tool for employers to determine when their operations and services are being compromised by employees regularly taking their sick leave in a manner that, while may not technically be, 'abuse of sick leave,' it is still wrong and compromises the organization. Thank you."

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

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

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

"Mr. Speaker, in support. The underlying principle here seems like a sound one. I do support the bill. I wish it were actually applied more broadly because I don't believe it's only the large employers who are unionized who sometimes penalize their employees for taking sick leave legitimately.

"But the whole idea of arguing against the principle that, if you are sick, you get to take sick leave that you're entitled to, that just seems ridiculous to me. You should be able to take sick leave when you're sick. And there are companies, I hope it's the tiny minority, but there are companies that occasionally don't allow that, and they penalize their employees for taking sick leave when they're sick. That just doesn't make any sense. Whether it's a big company or a small company, if you're legitimately sick, you should be able to take the sick leave that you've earned as part of your agreement with your employer. Mahalo."

Representative Finnegan rose to respond, stating:

"Mr. Speaker, I just wanted to emphasize, not all unions will come forward and speak loudly on this bill, and that's because sometimes what takes place is the employees themselves get upset when people have those kinds of patterns. Like three or four day weekends. Or not coming in on a Friday because they're sick, or on a Monday because they're sick. Abusing, but not abusing the sick leave policy. It has them in their working situations, put more pressure upon the work that they need to get done during that day. And management needs to be able to use those types of situations to clear up that particular problem. It's not only management being bad business owners or bad government, but it's a way to manage some of these problems.

"It's really interesting. My daughter, she will take on the weekend, she does a lot of dance, she does a lot of schoolwork, and all this other kind of stuff. Her schedule is quite busy and sometimes she'll do stuff all day Saturday, all day Sunday, and then Monday she'll get up and she'll tell me, 'Mom, I can't go into school today 'cause I'm sick.' Well, know what? She is sick. She's sniffing or whatever. I told her, 'You've got to. Come on and take a look at what's going on. This is the second time that you are sick on a Monday. You didn't decide to rest over the weekend. You decided to go on with your dance schedule over the weekend. You have an obligation to go to school on Monday. You need to manage your schedule.'"

Representative Wooley rose to a point of order, stating:

"Mr. Speaker. I'd just like to object. This is the second time she stood up and it's not in rebuttal. Point of order."

Representative Finnegan: "Mr. Speaker, I don't understand that."

The Chair addressed Representative Finnegan, stating:

"Representative Finnegan, please continue and summarize it."

Representative Finnegan continued, stating:

"Mr. Speaker, so the point is that there is a responsibility. Just because you have sick leave and you're entitled to sick leave, there are responsibilities when you go to work that other people a lot of the time have to cover for you. Allowing the ability for management to manage their workforce is a very important balance in the employer/employee relationship. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support and in rebuttal. Mr. Speaker, there are two separate questions being sort of rolled into one here. One is, whether you have sick leave, and then whether or not you are using it properly. The argument from the other side seems to be that if you take sick leave on certain days, it must be abusive. There's nothing to indicate that that's the case."

Representative Thielen rose and stated:

"Mr. Speaker, I object to that. There was no statement made to that effect. And I think that kind of personal attack is not ..."

Representative Rhoads: "It's not a personal attack."

Vice Speaker Magaoay: "Representative Thielen, hold on. Representative Thielen, please sit down. Representative Rhoads has the Floor. I had let Representative Finnegan continue on with her discussion regarding her opposition. Representative Rhoads, please continue."

Representative Rhoads: "It's not a personal attack. I'm just saying the argument seems to be that if you take sick leave on certain days, then you must be abusing it, and it's just not true. It's a case by case basis. Sometimes you're being abusive by taking sick leave, and sometimes you're not."

Representative Thielen: "Mr. Speaker. Mr. Speaker, I think that's inappropriate."

Vice Speaker Magaoay: "Representative Thielen ..."

Representative Rhoads: "This bill simply looks to say if you're legitimately taking sick leave, you cannot be punished for it. And that seems like an irrefutable principle. Mahalo."

Representative Thielen: "Thank you. I don't accept his 'mahalo.' I don't think that's a 'thank you.' I think that was a personal attack. And our Minority Leader did not state that."

Vice Speaker Magaoay: "Are you for the bill? Are you for the bill or against the bill?"

Representative Herkes rose to a point of order, stating:

"Point of order. Please have the speaker address the Chair and not the individual."

Vice Speaker Magaoay: "Representative Thielen, are you for the bill or against the bill?"

Representative Thielen rose and stated:

"Mr. Speaker, I support the bill, and I support our Minority Leader. And she did not make that statement. There are people that have testified that there is a pattern within some instances where employees may have a history of taking a sick leave on a Friday or on a Monday. But it's something that was brought to the Committee and brought to us in testimony. And I think those personal attacks by the Labor Chair that go on during the session are highly inappropriate."

Vice Speaker Magaoay: "Representative Thielen it's not a personal attack. I appreciate your comments. Thank you, very much."

Representative Thielen: "Thank you. Mahalo."

Representative Marumoto rose to respond, stating:

"Mr. Speaker, still in opposition and a short rebuttal. But I do believe the Representative from Kailua stated it correctly, that you might have legitimately bargained sick leave available to a worker, but sometimes a worker may not really be sick and there might be some abuse of that allowable, legitimately bargained sick leave. And when that occurs, the brunt falls on the fellow employees. So I believe that this is the argument that was being put forward by the Minority Leader. Thank you. Mahalo."

Representative Ching rose to respond, stating:

"Thank you. I'm still with strong reservations. Thank you, Mr. Speaker. I think the bigger question here is, we all have staff ourselves so in effect we are all management. That's true, right? So I mean, business owners have management issues and we're all human beings. And yes, we all, if we get sick, certainly the wise employer is compassionate to those who are truly sick because if that person is a really productive person and yet they happen to be sick and they're using this time to get well, you want to keep really wonderful employees."

"But as managers we all know, why is it if somebody keeps on being sick, it's just the message. What is the message that we send consistently to the private sector? To people who are just trying to manage their businesses? That they don't have control over their own business as much, and we seem to be infringing more and more."

"I think that the concept that we have here is that we do feel that at times, the Representative from Chinatown sometimes seems to be not always saying things in such an upfront and sincere manner. Thank you."

Vice Speaker Magaoay: "Representative Ching, those comments are not accepted."

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

"Mr. Speaker, I rise in support. Mr. Speaker, I really wanted to extend my appreciation to the Labor Chair for working this bill through. This bill has been around for at least 10 years now. In fact when I was the Labor Chair back in 2003 we wrestled with the same issue."

"I think at that time with the great assistance of the then Minority Leader from Kailua we were able to persuade the Governor to pass into law the Hawaii Family Leave Act, which provided a great assistance to our families who were thereby able to use some of their accrued, acquired, earned sick leave to take care of their ailing parent or spouse or son or daughter or family member. This is just a continuation of that basic principle. And the idea I think is to make sure that legitimately used sick leave that's earned by the employee, that's part and parcel of their compensation package, that they'll not be punished for using it."

"I think in this age of diseases like the H1N1 'swine flu' where we're encouraged to stay home from work when we have the sniffles or sore throat. When you have the symptoms that might be attributable to H1N1, we're encouraged to stay home and to avoid contaminating our work place and infecting our colleagues. I think these policies strengthen that safety aspect of one staying away and using their sick leave when they're sick. So for that reason Mr. Speaker, I support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2883, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Marumoto voting no.

Conf. Com. Rep. No. 107-10 and S.B. No. 910, 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. 910, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF HOMELESS PROGRAMS WITHIN THE DEPARTMENT OF HUMAN SERVICES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 108-10 and S.B. No. 2165, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2165, SD 1, HD 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. Just short comments with reservations. Even though Mr. Speaker, I have reservations on this bill and this is relating to private guards. This is security guards and the minimum qualifications, and education, and all of that other stuff."

"Mr. Speaker, I will support the bill, but I do have reservations because in a time where our retail merchants aren't having the easiest time keeping their businesses open, providing for security guards and paying for security guards and the high possibility of increased costs for them is still an important measure to consider. 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. 2165, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE GUARDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 113-10 and S.B. No. 2825, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2825, 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 support of the measure. I just would like to give a little bit of insight into this issue. This bill relates to the Student Loan Auction Rate Securities. Maui made some investments in 2007, up to 2008, and they purchased about \$44.2 million in the Student Loan Auction Rate Securities through Merrill Lynch, and then Merrill Lynch continually during that period of time represented to the County of Maui that the Student Loan Auction Rate Securities were money market alternatives: safe, short term investments.

"During that time that Merrill Lynch said to the County of Maui that the auction rate securities had never had a failed auction, implying that the market was fully developed and liquid. In other words almost the same as a certificate of deposit in a bank. And on February 26 of 2007, Merrill Lynch told Maui County they'd never heard of an investor stuck into an extended auction against the investor's wishes.

"And then all the way up until practically the day before the collapse of the auction rate securities market, Merrill Lynch provided an auction market securities report to the County of Maui which again was basically saying, 'everything is fine.'

"Now there's been a finger pointed at our Budget Director for doing the same kind of investments, relying upon the same kind of investment advice during this period of time. And I think that that is misleading and unfair to the Budget Director. The securities are still liquid, Mr. Speaker.

"On February 24, 2010, the Budget Department sold \$10 million of the auction rate securities at par value. There are other periods of time where the Director has stated in the absence of a market that will allow the State to sell more at par, the State will hold on to those securities until maturity. So the investments remain sound and good.

"The point is that the budget, the State of Hawaii, Maui County, and probably some other county departments and maybe the City and County of Honolulu; all of them were caught up relying upon sound investment advice, that the auction rate securities market worked. That you could redeem these weekly, monthly, as you wanted. And they relied upon what was supposed to be sound advice from the investment advisors, the brokerage houses, etc.

"So it is unfair to single out the Budget Director and say that she erred. She did nothing more than anyone else was doing across the nation. She also is now able to redeem some, not all but some of these, at par value, and she will not redeem the others until she can redeem them at par value. Thank you."

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

"Mr. Speaker, I rise in support. Just a couple of points of clarification. Maui did sue, I think it was Merrill Lynch, for the sale of the Student Loan Auction Rate Security. I think they purchased about \$45 million worth compared to the State of Hawaii that purchased over \$1 billion worth of Student Loan Auction Rate Securities. I think the Maui lawsuit was sometime in mid-February and that is proceeding.

"The basic allegations of the lawsuit of course is almost like a fraud and inducement that the representations of the broker at that time from Merrill Lynch. But for making representations that the Student Loan Auction Rate Securities were the equivalent of cash or certificate of deposit-like investments, Maui County would not have made the investment.

"I don't believe Kauai made a similar investment in Student Loan Auction Rate Securities, nor Hawaii County. I think the City and County of Honolulu did make some small investments in Student Loan Auction Rate Securities. Maybe less than I think \$15 million, maybe \$5 million. But the big one that purchased the most was the State of Hawaii through the Department of Budget and Finance. In fact Mr. Speaker, that's why we receive so much national attention. I think of the \$300 billion in Student Loan Auction Rate Securities, Hawaii as a percentage was in the third highest in the nation as one entity purchasing so much of these Student Loan Auction Rate Securities.

"And I believe it is correct. I think the Budget and Finance Office were able to liquidate some of their securities after the February freeze on the Dutch Auctions. But since that time Mr. Speaker, there have been no Dutch Auctions. In fact, if you talk to any of the local stockbrokers, investors, broker houses, they will tell you straight up that they do not anticipate seeing any return of the auctions to sell Student Loan Auction Rate Securities.

"In fact, there may be an investigation coming forward through the Securities Exchange Commission or Congressional Banking Committees that could have this whole practice of investments and shoring up an artificial market for these securities, as put upon the investment community.

"I guess the point Mr. Speaker, is that this bill here, from here on out, will prevent the State of Hawaii from looking at just the representations of the broker houses, but the actual maturity dates of the instruments. At the Student Loan Auction Rate Securities before us, some of the maturities are well beyond the five years I think anticipated by our previous lawmakers who allowed the investment in the current statutes. So this will clarify the law going forward. I think it's a good thing. Thank you."

Representative Thielen rose to respond, stating:

"Yes, thank you. I just wanted to make clear to the Chair of the Finance Committee, I do support the bill. But I also wanted to make clear that this was something that impacted a huge number of states, counties, etc. across the nation. I'm glad that there's an investigation ongoing. I would anticipate that the State would be able to sell at par by the time these lawsuits wind their way through, and I believe the rulings will be favorable to the municipalities and the states. 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. 2825, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 114-10 and S.B. No. 2828, SD 1, HD 3, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2828, SD 1, HD 3, 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 rise with reservations and short comments. Thank you, Mr. Speaker. This is a bill having to do with impact fees and we did hear about how difficult it is for the Big Island, but that is not necessarily why I have reservations on this bill. Recommendations were made to this House and suggestions were made to add Charter Schools to this bill and having them be an option for receiving impact fees for either land or building of a school.

"Mr. Speaker, that makes sense. Public Charter Schools have been able to operate and some of the parts that they lack are in facilities and facilities costs. So it just makes sense that you would open it up to Charter Schools to be able to be recipients of these impact fees through the Department of Education.

"Mr. Speaker, when we don't do something as common sense as that, which is where they use money. The most direct avenue to getting a better price for these schools to open up, and directly in response to the community. This is what Public Charter Schools are. That we should have put them, as possible to receive these impact fees.

"Mr. Speaker, this is happening in West Hawaii. Half of the Charter Schools are on the Big Island. We should have fought harder for Charter Schools to be included in receiving impact fees. Thank you."

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

"In strong support, and may I request permission to enter written comments into the Journal."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of SB 2828, SD1, HD3, CD1. This bill provides clarification on the determination of school impact fees for financing new Department of Education educational facilities or expanding existing ones.

"Act 245, Session Laws of Hawaii 2007, established the school impact fee program by creating school impact fee districts, and setting a system to provide lands and collect fees for new or expanded school facilities in areas with significant residential growth.

"Mr. Speaker, as the Representative for one of the fastest-growing districts in our State, I have seen first-hand the importance of ensuring that our public infrastructure, including schools, keep up with the pace of new development. I believe that the amendments made to the school impact fee program in this bill will help ensure that developers make a fair contribution to the construction of new public schools which are necessitated by their developments. In all communities across our State, these impact fees will benefit both new and long-time residents alike.

"For these reasons, I stand in support of this bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2828, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 115-10 and S.B. No. 2324, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2324, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'll be in opposition, but to save time, could you just include my arguments from the previous times I spoke on this bill. Thank you." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2324, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE BENEFITS," passed Final Reading by a vote of 45 ayes to 6 noes, with Representatives Ching, Finnegan, Marumoto, Pine, Thielen and Ward voting no.

At 4:47 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 1062, SD 1, HD 1, CD 1
 S.B. No. 2883, SD 1, HD 2, CD 1
 S.B. No. 910, SD 1, HD 2, CD 1
 S.B. No. 2165, SD 1, HD 2, CD 1
 S.B. No. 2825, SD 1, HD 1, CD 1
 S.B. No. 2828, SD 1, HD 3, CD 1
 S.B. No. 2324, SD 2, HD 2, CD 1

Conf. Com. Rep. No. 121-10 and S.B. No. 2661, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2661, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like to disclose a potential conflict. The law firm that I work for has a claim listed in this bill. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I have the same request on this bill. My law firm has a claim for a payment of attorney's fees under this bill. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. Same request. My law firm has a claim in this bill as well," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In support and I just would like to note that this is why when you take a look at the dollar figure attached to this, this is why we need to clarify in State Law that the Legislature, and not the courts, will decide when the State waves its sovereign immunity. Thank you."

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

"Mr. Speaker. I have the same request to disclose a potential conflict. My client's settlement is included in this measure," and the Chair ruled, "no conflict."

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

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

[This section intentionally left blank.]

Summary

	General Funds	Special Funds
2010 Regular Session		
SB No. 2661		
BED		
Brandt v. BED	80,000	
EDN		
Cabanting etal v. Poouahi (settlement)	3,485,815	
Clark v. State of Hawaii	30,000	
Conley v. Mahuna etal	15,000	
T.N. v. DOE etal	75,000	
HMS		
Manalo v. Wells etal - interest from 10/21/09 (judgment)	32,478	
Henson v. State (settlement)	30,000	
Ayala etal v. Wilson etal (settlement)	50,000	
McMillon etal v. State and Faletogo etal v. State (settlement)	610,000	
Kong-Guillermo v. Hefferman etal (settlement)	110,000	
Perez v. Karr etal (settlement)	213,333	
Wolters v. Carroll etal (settlement)	213,333	
Toomey v. Karr etal (settlement)	213,333	
Hadley v. Torney	100,000	
Robinson v. Tripler Army	12,000	
LNR		
Consolidated cases - Pflueger (settlement)	1,500,000	
Roque v. Dickman etal (settlement)	93,850	
PSD		
Botelho etal v. State (judgment)	30,454	
DeJesus etal v. State (settlement)	80,000	
Ra v. State (settlement)	39,500	
DOT		
Bartoleme v. Tagalicod etal (settlement)	500,000	
Farris v. State (settlement)	475,000	
Pinion v. State (settlement)	475,000	
Flores etal v. DOT etal (settlement)	23,225	
D&J Ocean Farms, Inc. v. Pedro etal (settlement)	25,000	
Morales v. DOT etal (settlement)	25,000	
Cabrera etal v. State (settlement)	75,000	
Misc		
Kathleen M. Gillett	1,379	
June S. Hashizaki	150	
DB Structured Products, Inc.	500,000	
Total Claims:	7,515,626	1,598,225

Consolidated Cases - Pflueger (settlement) \$1,500,00.00

"These consolidated cases are a result of the Ka Loko Dam breach on March 14, 2006, resulting in a flood that caused the death of seven persons and damage to numerous parcels of property. The State was made a party based on the allegations of negligence by the Public Utilities Commission in regulating the irrigation system operator, by the Department of Land and Natural Resources in not inspecting the dam, and by the State of Hawaii generally as the landowner of the watershed above the dam allegedly having the responsibility of controlling the flow of water.

"The cases proceeded to mediation resulting in the global settlement among all parties. The State of Hawaii succeeded on having all allegations of liability dismissed except for the property above the private property on which the dam was located.

"The settlement agreement includes an assignment of claims of any rights, privileges, claims, or any other recourse the State may have pursuant to insurance policies that provide insurance coverage to the State arising out of the released claims.

McMillon, et al. v. State (Settlement) \$610,000.00

"Two class action lawsuits were filed simultaneously relating to the Kuhio Park Terrace (KPT) and Kuhio Homes housing projects. The McMillon lawsuit was filed in federal court and involved federally protected civil rights, i.e., Americans with Disability Act, Rehabilitation Act section 504, and Fair Housing Act disability rights. The Faletogo lawsuit was filed in state court and primarily involved general living conditions at KPT and the alleged breach of lease and warranty of habitability. A class has been certified in the federal case. KPT is the oldest housing project in the State's federal inventory. Built in 1965, it consists of two 16-story towers and several two-story buildings. Built only a little later and contiguous to KPT is Kuhio Homes, which consists of several two story "town-house" style units. Both are considered part of the same project and are managed together.

"Large high-rise public housing projects have proven themselves to be a failed approach to low-income public housing and have been torn down throughout the United States. Because this is a United States Department of Housing and Urban Development (HUD) financed project, nothing can be done without HUD approval and HUD funds. The Hawaii Public Housing Authority has twice applied for a HUD "Hope VI" grant to raze KPT and both times the application was denied not for lack of merit, but rather for lack of available federal funds. Given their age, the buildings have become difficult and expensive to maintain. For example, the garbage chutes were designed as incinerator chutes and do not function well as collection receptacles. The elevators are obsolete and repair parts are no longer available; moreover, the original design of two passenger and one service elevator per building may have been adequate for a middle class apartment building, but are not adequate for public housing, resulting in frustrating waits and ensuing vandalism. The high concentration of residents has led not only to vandalism, but other crimes among the residents, which has increased the difficulty of maintaining the premises.

"This settlement was reached after extensive mediation with a federal magistrate and a private mediator. Of the settlement amount, \$245,000 will go to residents of KPT as damages and/or "rent abatement"; the balance represents attorneys' fees for the plaintiffs' attorneys recoverable under federal statutes.

Cabanting, et al v. Po'ouahi (Settlement) \$3,485,815.38

"The parental grandfather and the father of a now 15-year-old child alleged that employees of the Department of Education wrongfully failed to make mandatory reports of suspected child abuse after the minor's natural mother voluntarily had placed her with a caregiver. As a result, the minor was alleged to have suffered extensive and permanent injuries including brain damage from infections, loss of hearing in one ear, blindness in one eye, and the loss of her nose and upper lip and other injuries, the effect of which has left her unable to care for herself and unlikely to obtain employment. She was alleged to have needed some \$481,000 in future cosmetic surgery and lifetime care.

"The State and its excess insurance carrier, Chartis Insurance (fka AIG), recently agreed to settle the Plaintiffs' claims for a total of \$5,750,000. The

State's portion is its self-insured retention and deductible of \$3,500,000 applicable for the year of this incident. (The State's self-insured retention was \$3,000,000. Also, for the period when this incident occurred, there was a further deductible of 50 percent of the first \$1,000,000 or any portion thereof in excess of the retained limit.) \$835,470.96 is to be paid to the State as reimbursement for an outstanding Department of Human Services lien. (As part of the settlement, the State agreed to waive \$50,000 of the outstanding DHS lien of \$885,470.96). Thus, the State will, in effect, pay out a net amount of \$2,664,529.04, and Chartis will pay approximately \$2,250,000.

T.N. v. Department of Education, et al, (Settlement) \$75,000.00

"The Baldwin High School girls' softball team on Maui alleged that the Department of Education (DOE) was discriminating on the basis of gender and denying the girls' team equal and adequate access to public recreational facilities in violation of their Constitutional and statutory rights, including Title XI of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. By providing equipment and facilities inferior to those provided to the Baldwin High School boys' baseball team. The Court found that the DOH had violated Title XI and granted Plaintiffs' request for a preliminary injunction. After intense negotiations, the parties reached an agreement that addressed virtually all of the Plaintiffs' concerns, including providing an adequate practice field and additional equipment. As part of that settlement, the parties agreed to pay Plaintiffs' attorneys fees of \$75,000.

Brandt v. Department of Business, Economic Development & Tourism (Settlement) \$80,000.00

"Claimant secured a judgment for temporary total disability, the amount for which continued to grow as Claimant's alleged disability endured and 1% interest also continued to accrue on that amount.

Clark v. State. (Settlement) \$30,000.00

"Plaintiff suffered a recurrent dislocation of his left knee which he had injured earlier, and for which he had had surgery. As a result of this fall, he damaged an area of the knee that had not been damaged earlier and resulted in another new surgery.

Conley v. Mahuna, et al. (Settlement) \$15,000.00

"Plaintiff Thomas Conley, Jr., a tenth grader at Hilo High School, was injured when a school security attendant (SSA) used force to confiscate a video camera from the Plaintiff. The Plaintiff alleged that the SSA used unreasonable force, slamming the Plaintiff onto a desk and the floor, injuring the Plaintiff's back.

Manalo v. Wells, et al (Judgment) \$32,478.37

"The Claimant's vehicle was struck by a Department of Human Services' employee acting in the course and scope of his duties on December 4, 2006. The Claimant suffered damages as a result of the accident.

Henson v. State (Settlement) \$30,000

"The biological parents of two minor children ages 9 and 6 years old allege that the Department of Human Services wrongfully removed the children from their family home and placed them in a temporary foster home. Department of Human Services allegedly conducted an untimely and incomplete investigation of child neglect complaints against the parents, and misrepresented, among other things, that three mental health professionals supported the removal of the children were removed from their home for a month, but subsequently returned when the three professionals disclaimed the support for the removal.

Ayala, et al v. Wilson, et al (Settlement) \$50,000

"This case arises out of an alleged sexual abuse of a foster child by the adult son of foster parents. The Department of Human Services is alleged to have negligently placed the child in the foster home.

Kong-Guillermo v. Hefferman, et al (Settlement) \$ 10,000.00

"A female inmate was sexually assaulted by staff at the Hawaii Youth Correctional Facility in 1995 when she was housed there as a minor. This case was mediated by Keith Hunter of Dispute Prevention & Resolution, which resulted in settlement.

Perez v. Karr, et al (Settlement) \$213,333.00

"A female inmate was sexually assaulted by staff at the Hawaii Youth Correctional Facility in 2002 when she was housed there as a minor. This case was mediated by Keith Hunter of Dispute Prevention & Resolution, which resulted in settlement.

Wolters v. Carroll, et al (Settlement) \$213,333.00

"A female inmate was sexually assaulted by staff at the Hawaii Youth Correctional Facility in 2002 when she was housed there as a minor. This case was mediated by Keith Hunter of Dispute Prevention & Resolution, which resulted in settlement.

Toomey v. Karr, et al (Settlement) \$ 13,333.00

"A female inmate was sexually assaulted by staff at the Hawaii Youth Correctional Facility in 2002 when she was housed there as a minor. This case was mediated by Keith Hunter of Dispute Prevention & Resolution, which resulted in settlement.

Hadley v. Torney, et al. (Settlement) 100,000.00

"This case involves three claims made by Linda K. Hadley, the former nurse supervisor at the Hawaii Youth Correctional Facility (HYCF) alleging that she was subjected to emotional distress, retaliated against, and forced to quit her job because she complained about issues related to the medical unit at HYCF & Hadley's workers' compensation stress claim was deemed compensable and her treating psychologist opined that Hadley could not return to work at HYCF.

Robinson v. Tripler Army Medical Center, et al. (Settlement) \$12,000.00

"A DHS social worker had the runaway mother arrested at Tripler on the outstanding bench warrant and took legal custody of the baby. Among other claims, Plaintiffs alleged that taking custody of the baby violated their rights to make medical decisions on behalf of the baby. The United States District Court of Hawaii ruled in Plaintiffs' favor and held that DHS' seizure of the baby unconstitutionally terminated Plaintiffs' right to make medical decisions on the baby's behalf.

Roque v. Dickman, et al (settlement) \$93,850.00

"Claimants were defrauded of their interest in property pursuant to forged deed. The parties who defrauded Claimants of their interest subsequently mortgaged the property. The mortgagee claims to have a superior secured interest in the property based upon the Land Court having issued a transfer certificate of title naming the defrauding parties as owners of the property.

Botelho, et al v. State (Judgment) \$30,454.33

"Inmates at the Hawaii Community Correctional Center in Hilo were injured while the prison was being evacuated during a fire on July 24, 2004. The court awarded \$30,454.33 to the inmates' attorney fees.

DeJesus, et al v. State (Settlement) \$80,000

"This case involves the discharge of eight employees of the Department of Public Safety who were on workers' compensation leave for one year or more and had no foreseeable return to work date. Former Director of Public Safety John Peyton made the decision to discharge the employees to address staffing issues at the correctional facilities and to fill the positions with people who could work.

Flores, et al v. Department of Transportation (Judgment) \$23,225.34

"A roll-up door at the Pier 3 warehouse at Nawiliwili Harbor on Kauai suddenly and unexpectedly came down and struck Claimant on the head while he was picking up freight from Young Brothers on August 4, 2005. The Claimant's alleged injuries include a closed head injury, cervical strain, right shoulder strain and impingement, and chronic and constant headaches. This case proceeded to the Court Annexed Arbitration Program. The arbitrator found the State 100% liable.

Ra v. State of Hawaii (Settlement) \$39,500.00

"Plaintiff alleges that the State van rear-ended their vehicle and he sustained serious injuries as a result of the collision and the State filed a counterclaim against the mother. The State of Hawaii driver claims the Claimant's vehicle came to an abrupt stop in the middle of flowing traffic while the light was green.

"The case settled for \$40,000.00 with the State paying \$39,500.00 and the Claimant's mother paying \$500.00.

Bartoleme v. Tagalicod, et al. (Settlement) \$500,000

"Gilbert Bartolome lost control of his vehicle as he was completing the curve. The vehicle crossed the center line and into the path of Mark Tam's vehicle. The Tam vehicle struck the front passenger side of the Bartolome vehicle. The collision prevented the Bartolome vehicle from going off the steep drop off. Christopher died as a result of injuries he sustained in the accident. His parents are the Plaintiffs. There were three prior accidents at this location involving single vehicles traveling in the same direction as the Bartolome vehicle during rainy weather. All three vehicles went off the steep drop off.

Farris v. State of Hawaii (Settlement) \$475,000.00

"Plaintiff alleges that the State Department of Transportation was negligent in the design, construction, and maintenance of this portion of the freeway, and that the negligence resulted in Thomas Farris' vehicle hydroplaning. As a result of the accident, Plaintiff sustained severe injuries. The medical care costs to date exceed \$210,000. Plaintiff's economist and the State's economist agree that the life care plan is between \$1,340,000 and \$2,170,000.

Pinion v. State of Hawaii, at al. (Settlement) \$475,000.00

"This case arose out of a motorcycle versus motor vehicle accident that occurred on Maui on the highway between mile post marker no. 1 and Firebreak Road. The State's accident reconstruction expert estimated that the motorcycle was traveling at 100 mph at the time of the collision. Edmund Akiona died from the injuries he sustained in the collision and Peggy Pinion sustained serious injuries to her left leg and left eye and other minor injuries. Although it is clear that Akiona was primarily at fault, there have been other accidents at this location making it likely that the State would be held to be jointly and severally liable with Akiona.

D&J Ocean Farms, Inc. v. Pedro (Settlement) \$25,000

"D&J Ocean Farms operated an aquaculture farm on Molokai. D&J alleged that the State of Hawaii negligently designed and maintained a culvert running under Kamehameha V Highway located north of its property. As a result, runoff from the upslope property, including mud and debris, was diverted onto its property during rainy weather causing flooding and damage to D&J's aquaculture ponds.

Miscellaneous Claims:

Kathy M. Gillett - \$1,379.31

"Claimant requests tax refunds for amended tax returns for 2003 through 2005. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by HRS §37-77.

June S. Hashizaki - \$150.00

"Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer be cashed. The legislative claim was filed with the Attorney General within six years from the date on which the claim for the payment matured, within the period specified by HRS §37-77.

DB Structured Products, Inc. - \$499,999.91

"Claimant requests reissuance of an outdated check that was never received. The legislature claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by HRS §37-77."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2661, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 124-10 and S.B. No. 2461, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2461, SD 2, 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. I rise again, in opposition because as you know I've voted a number of times against this particular bill. This is the bill that is the rental motor vehicle customer facility charge increase from \$1 per day, to \$4.50 a day effective September 1, 2010. That's about a 350% increase, Mr. Speaker. It also appropriates \$72 million from the Rental Motor Vehicle Customer Facility Charge Special Fund to essentially build a tower in front of the United Airlines arrival area, across the street, and build it after the November 2011 APEC conference this year.

"The point is Mr. Speaker, this is a considerable increase and a hit to our tourism industry. Other destinations are being very competitive. This will not make us competitive, even though in the Finance Committee the proponents of the bill said that when these fees increase, business increases. And with the permission of the Chair of Finance we said, 'Could we have that data?' They said they had studies and Mr. Speaker, I'm still waiting for that, and unless the Chair of Finance has it, I don't think we ever got it. It was entirely counterintuitive to what generally is the case.

"Mr. Speaker, this \$4.50 a day is only an opener because already through Hawaii Revised Statutes 251, there is a rental motor vehicle surcharge tax of \$3 per day. So \$3 plus \$4.50, is \$7.50 and then you add the GET tax on top of that. That gets pretty expensive. You haven't even gotten in your car yet. You're just starting out and you've got that high of a price already on your ticket. And if this doesn't make us less competitive, I don't know what will.

"Until I see the data, I remain unconvinced that the statistics can show that business will actually increase. I think we're 'cutting our nose to spite our face.' And Mr. Speaker, I oppose this piling on of taxes rather than delivering the goods at a fair price that it has been. And for these reasons this is job killer number 3, and it's not good for our economy. Thank you."

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

"Thank you, Mr. Speaker. I rise in support. I think the argument of the fee increase has some merit in the sense that normally when you travel to airports around the country and you have your rental car facility right next to the airport, normally the fees are more expensive than those that are way off property. And what they have found is that those that are way off property tend not to get as many renters as those that are actually on property. So I think the argument that with increased fees you'll probably get more business is a true argument.

"Because when people travel a long distance and they come out of the airport and they walk straight out and they see that the rental car facility is right there, available to them, it's a matter of convenience. They will go for the car. If they have to go a long way and wait for shuttles potentially coming, they may take a taxi. It's just a convenience thing.

"So I think this is really a good idea. I know personally when you walk out of our Honolulu Airport and you're looking for the rental car facilities with the signage, with the convenience, a lot of times it's so confusing. You can't really figure out where you're supposed to go, if there're rental cars. And I think this will be a huge improvement to our airport and be a job creation bill. Thank you."

Representative Souki rose in support of the measure, stating:

"Yes thank you very much, Mr. Speaker. This Facility Fund, it should be noted that it is a user fund. They're not attaching the Highway Fund to it, even though the car rentals contribute over \$30 million a year to the Airport Fund. The \$4.50 is needed to pay for the bond amortization for the total cost for putting up the centralized facility at the airport, and also provide some assistance to the Maui Airport for the overflow parking. It

will also purchase a piece of property on Kauai for their parking facility and to build a parking facility there. The total cost is going to come to about \$500 million, and that includes both bonding and money that you get from the increase of the user fees.

"Now the Legislature will have an opportunity as the years go by, around 2014, 2015, if there is then surplus from this facility charge, then the Legislature can then, in its wisdom, lower the fee. But we need that fee now to pay for the bonding requirement and to satisfy the mortgage loan.

"Now it should be known that throughout other airport jurisdictions throughout the mainland, they all do the same thing, and they all need to have these user fees to pay for the facility rather than going through the general obligation bonds and having the state pay for it or the taxpayers pay for it. The users will pay for it and that seems to be reasonable. Thank you."

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

"Thank you, Mr. Speaker. I've risen on this particular measure or issue in opposition on numerous occasions. Today I rise with reservations. Thank you. I've been looking at this particular measure and I got some additional information from CATRALA, the rental car companies, and I do believe that the previous speaker is correct. This is the right thing to do.

"Other jurisdictions are doing it. In fact if we don't do it like this, I've learned that the price to the renters might be as high as \$5, maybe \$6. So if we don't start it now at \$4.50, it's going to be much more expensive. In addition, the other jurisdictions I've been told in some places charge as much as \$8.

"Finally Mr. Speaker, our '9th island,' also known as Las Vegas, just created a consolidated rental car area. And for those of you who have visited McCarran Airport recently, it's pretty awesome and I think that we need to in Hawaii do the same thing. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I am voting no, but I won't say anything. Mr. Speaker, could you just note that in the Committee Report it shows me in the Committee and the vote is actually wrong. I missed that particular vote. I know you can't change the Committee Report, but I do want to note today that I was not present, and did not vote for it. 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 rise with reservations in support of S.B. 2461--Relating to Transportation. This bill amends the Hawaii Revised Statutes to raise the rental motor vehicle Customer Facility Charge (CFC) from \$1/day to \$4.50/day. The bill further seeks to appropriate funds out of the Rental Motor Vehicle Customer Facility Charge Special Fund for multiple purposes.

"While I, too, acknowledge the necessity of modernizing Hawaii's rental car facilities as essential to improving tourist numbers and overall satisfaction; as a result, any and all funds generated by the CFC increase must go directly to this purpose, and this purpose alone. However, I support this measure due to the fact the affected industry is one of the bill's main proponents.

"My other lingering reservation and concerns are the effect that this measure will have on tourism, our leading industry. Thank you."

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

"Thank you, Mr. Speaker. I stand in strong support. If I can adopt the words from the speaker from Wailuku, as well as just make a few

comments about the \$4.50 a day as the other Representative from Pearl City had made mention. There are a lot larger fees in other areas which are also travel destinations like Hawaii. So I think the State of Hawaii being as competitive with creating the additional infrastructure that we need.

"In addition, at a time where we need a lot of jobs, this project will also provide many jobs, as well as an influx of funds into our economy. So with that I'd just like to stand in strong support. 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. 2461, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Berg, Brower, Finnegan, Hanohano, Marumoto, Pine, Thielen and Ward voting no.

Conf. Com. Rep. No. 126-10 and S.B. No. 2534, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2534, SD 2, HD 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. This has to do with relating to bail. Mr. Speaker, this is the one that we wanted the ability to accept bail 24/7 and require law enforcement agencies that have custody to accept these bails. The problem that took place at the Public Safety Department, they basically said that it was going to be very costly for them. How are they going to make it work?

"So what happened in CD 1 is it changed it from, 'people who have custody of a person,' to 'people who have arrest powers,' need to be able to accept bail 24 hours, 7 days a week. Well that may have helped PSD but what it does now is it creates a whole other problem in another area. And this is where DHS, Department of Tax, DCCA, DOCARE and the AG's Office would have to have the ability to accept the bail 24/7 just by changing the language of, 'having custody' in this particular bill.

"Like I said, this causes a whole different problem. It will still cost money and be not a very pretty picture for all of those different agencies who have to be able to accept bond bail 24 hours, 7 days a week. So I'll be voting 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. 2534, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Finnegan and Marumoto voting no.

Conf. Com. Rep. No. 129-10 and S.B. No. 2115, SD 1, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2115, 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. This one has to do with relating to pre-audits for proposed payments for the University of Hawaii and the Department of Education. And it actually saddens me that I'll be voting no on this measure because I feel that I can support the University's ability to have this pre-audit ability.

"The problem that I have is with the Department of Education, Mr. Speaker. I think before we start making these changes and including the Department of Education, we have to really fundamentally look at doing a comprehensive financial audit that the Minority has been asking for, for a very long time.

"Now that that, not even a bill, that resolution is being passed, I still think that we know that the resolution doesn't have the force of law. So the possibility of it not being done and not really taking a look at how we need to hold accountable the Department of Education and their spending, that we're going to go ahead and pass this ability to them.

"Like I said, I'm saddened that I won't be able to support this bill that includes the University of Hawaii, but I guess that's the consequences of having both of them in 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. 2115, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PREAUDITS FOR PROPOSED PAYMENTS," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Finnegan voting no.

Conf. Com. Rep. No. 130-10 and S.B. No. 2434, SD 1, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2434, SD 1, HD 1, 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. This has to do with relating to salaries. Mr. Speaker, just really quickly. I wanted to make note that I think that this bill did turn to the direction to make it better. What this does is, it's more performance based regarding any increase in pay for not only the Superintendent, but other leadership within the Department of Education. So I just wanted to note that I do have reservations on it, but no longer am I a no vote. I think this is heading in a better direction. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2434, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Awana, Carroll, Manahan, Marumoto, McKelvey, Thielen, Wooley and Yamane voting no.

Conf. Com. Rep. No. 131-10 and S.B. No. 2885, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2885, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'm in favor of this measure that establishes Health Savings Accounts Assessment Task Force within the Department of Labor to evaluate the current state of health savings account options in Hawaii's health insurance market and explore ways to expand access to these accounts.

"Health savings accounts are a good idea because a high deductible policy can reduce premium costs and encourage a policy holder to use health care services more efficiently. There are numerous benefits, but I will simply request that this article from *Managing Your Money* be inserted in the Journal as my contribution. It's entitled: The Benefits of Health Savings Accounts, with your permission, Mr. Speaker. Thank you."

Representative Marumoto's written remarks are as follows:

"Mr. Speaker, I rise to speak with reservations to SB 2885 SD2 HD1 CD1. This bill establishes the Health Savings Accounts Assessment Task Force within the DLIR to evaluate the current state of health savings

accounts options in Hawaii's health insurance market and explore ways to expand access to these accounts in Hawaii.

"Health savings accounts are a good idea because a high deductible policy can reduce premium costs and encourage the policyholder to use healthcare services more efficiently."

Representative Marumoto also submitted the following article:

Managing Your Money

Personal finance advice

From local finance experts

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SAVING, TAXES

The benefits of Health Savings Accounts

E-mail/Link Posted by Cheryl Costa April 15, 2010 05:46 PM

In recent years, Health Savings Accounts, or HSAs, have become more and more popular. But what exactly are they and what are the benefits of having one?

HSAs are IRA-like accounts that are used in conjunction with high deductible health care plans. (A high deductible health care plan has a deductible of at least \$1,150 for singles and \$2,300 for families.) If you have a high deductible health plan, you are eligible to contribute to an HSA. The contribution limits are \$3,050 for individuals, \$6,150 for families and \$7,150 for people who are 55 or older and signing up for a family plan. Money contributed to the account is tax deductible, earnings on the invested funds are tax deferred and withdrawals are tax-free if they are used to pay for qualified medical expenses.

Typically, someone would sign up for a high deductible health care plan and simultaneously make either a lump sum contribution to the HSA or sign up for monthly deposits. Money deposited into the HSA can be used to meet any medical deductibles and expenses you might have throughout the year.

With any luck, your medical expenses will be low and you won't need to spend all the money that accumulates in your HSA. Funds left in the HSA can stay there for years. In fact, many people establish HSAs with the intent to never use the funds in the account. In this situation, contributors plan to pay any and all medical expenses out of pocket. This allows them to accumulate substantial assets within the HSA. If money is left in the account for years or even decades, you could have a nice retirement nest-egg in place. And once you turn age 65, you can take withdrawals from the account without any penalty. (Ordinary income taxes would still be due but there would be no penalties.) If you use HSAs in this manner, it is like being able to make a double contribution to an IRA. One other point to note: money invested in HSAs is generally invested in low yielding money market accounts but there is nothing preventing you from investing your HSA funds in equities and really building up the account over time.

At 5:03 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 5:04 o'clock p.m.

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

"Thank you, Mr. Speaker. I'm rising in support. I would like the words from the Representative of Kahala – Kaimuki. It's one of the few times I can insert her comment as my own. And brief comments in support.

"We did put in members from the Bank Association, as well as the Credit Union Association to look at this issue, as well as Health Information. Thank you."

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

"Thank you very much, Mr. Speaker. In strong support. And may I have the comments of the two previous speakers, the Chair of Health and the Representative from Kahala entered into the records as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, just in strong support of Conf. Com. No. 131 as well. This is something that I know has been in discussion for years, and we've been proponents of it here I know on this side of the aisle for many years. So I'd like to ask for the remarks of the Representative of Kahala to be entered as my own, and addition written comments."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of S.B. 2885. I believe that Health Savings Accounts (HSA) are a health plan option that may be attractive and beneficial to many individuals in Hawaii and thus would support the formation of a task force to explore the ways in which HSAs could be expanded as a health insurance option for the citizens of Hawaii.

"The rapidly rising cost of health care is crippling businesses, forcing layoffs and reductions in pay. It is important that businesses and healthcare consumers have access to all health plan options in order to bring down cost and increase quality of care. Allowing consumers the option to enroll in a Health Savings Account is one step that can be taken to bring down the cost of healthcare, encourage healthier lifestyles, allow for more patient and physician control of health care decisions and save money for employers and employees alike. 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. 2885, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH SAVINGS ACCOUNTS," passed Final Reading by a vote of 51 ayes.

At 5:09 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2661, SD 2, HD 2, CD 1
 S.B. No. 2461, SD 2, HD 2, CD 1
 S.B. No. 2534, SD 2, HD 1, CD 1
 S.B. No. 2115, SD 1, HD 2, CD 1
 S.B. No. 2434, SD 1, HD 1, CD 1
 S.B. No. 2885, SD 2, HD 1, CD 1

At this time, the Chair stated:

"Members, please note on page 21, Conference Committee Report No. 139-10, HB No. 1948, HD 1, SD 1, CD 1, will be deferred one legislative day, which is tomorrow."

Conf. Com. Rep. No. 139-10 and H.B. No. 1948, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 133-10 and S.B. No. 2951, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2951, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you. I just wanted to be first out of this starting gate, Mr. Speaker. I'm rising to speak against Senate Bill 2951 and that's Conf. Com. Rep. No. 133. Mr. Speaker, I'm speaking against it because it places cattle over renewable energy projects. The two can coexist without providing more favorable treatment to the cattle ranchers than is provided to any other entities on leased State land. It lets cattle trump green energy.

"I just wanted to say a few things from the Department of Transportation. 'Under federal law,' the Department of Transportation stated, 'the owner of rural property rights, such as a lease, shall be reimbursed for all reasonable expenses the owner incurs including recording fees, transfer taxes, prorated share of any prepaid property taxes, and moving and reestablishment costs.'

"This bill creates a conflict with federal law. What it does is, it says the State says those cattle ranchers can recover more than they are allowed to under federal law. If the ranchers are not going out of business, that's the in lieu payments referred to, going out of business costs. And if the ranchers are not going out of business, this expense could not be paid. The

Department of Transportation just said plainly, 'Under federal regulations we need to reimburse based upon receipts and justification.'

"In the Governor's Message on the same bill of last year which she vetoed, she said that it was objectionable, and it disproportionately and inappropriately compensates the lessees of public lands above other lessees of State lands.

"There's another problem with this bill that's going to impact renewable energy projects. The automatic extension circumvents the authority of the Board of Land and Natural Resources and hinders its ability to ensure that public lands are used for the highest and best public use. Now, your best public use today is a lot different than it was when those ranching leases were granted. Your best public use today, in many instances, is for renewable energy projects. To create jobs, green jobs in our economy, and get us off our unbelievable dependence on fossil fuel.

"So I go on with the Department of Land and Natural Resources where this would require the State to provide unprecedented additional levels of compensation in the form of hypothetical future income losses relating to breeding livestock under some circumstances. And the Department of Land and Natural Resources goes on, 'State law already provides clear safeguards for tenants and terms for leasing public lands. Chapter 171 HRS, ensures transparency and fairness in the disposition of State assets, and most importantly to guarantee that State land resources will be available when needed to meet the greater public safety and other public needs of all of Hawaii's residents.'

"The Department points out that the existing tenants were aware of these provisions, willingly entered into leases with the State under these conditions, and received rent well below the market rate; in many cases for decades due to these provisions.'

"And I would note the many times that our Big Island Representative has stood up and said, did they read the lease? Did they agree to the terms? And he has stood up and said that numerous times. This is another instance where now, these lessees are coming in and saying they want more favorable terms, more favorable payment, than any other State lessee. And that their use takes precedent over the renewable energy projects that we need to implement to move our State forward to energy independence.

"The DLNR goes on, 'It would be in direct conflict with basic contract law and the general State welfare to now pass a measure that requires the State to provide extraordinary and unprecedented compensation to such tenants.'"

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

Representative Thielen continued, stating:

"Thank you, Representative Ching. Thank you. 'These lessees have reaped the years of benefit from below market rates. Indeed to take such action at a time of great economic downturn and when the Legislature is looking to departments to maximize State revenue, is downright puzzling.'

"I will read one more section from the DLNR testimony, 'While providing limited preferential terms for the disposition of public lands for certain types of activities such as agriculture, renewable energy, government projects, industrial parks and utilities, is well established in statute based on policy considerations. The State's right and responsibility to withdraw portions or all of the leased lands for a greater public purpose has never, and should not ever be compromised.'

"That's what this bill does. It compromises that Mr. Speaker, and I think the bill is unwise, unprecedented, and I vote no."

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

"Thank you, Mr. Speaker. I rise in support of Conference Committee Report 133-10, Senate Bill 2951, Senate Draft 2, House Draft 2, Conference Draft 1. Mr. Speaker, the purpose of this measure is to provide for fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purpose.

"Mr. Speaker, this bill was introduced specifically to address an issue on the Big Island where cattle ranchers suffered serious financial losses as a result of the Saddle Road Widening Project. The Department of Land and Natural Resources established a conservation easement on leased lands, effectively preventing the ranchers from being able to use the leased land for their cattle herds, which required our local ranchers to reduce their herds at a significant loss. This jeopardized the lessees' entire business model because the ranchers were unable to mitigate long term fixed costs associated with operating a ranch in the way they had anticipated when the lease was negotiated.

"Current law provides for rent reductions if the land withdrawn causes the land to become unusable for the specific use or uses for which it was originally leased. However, the law provides no other method of compensation. In addition, ranchers are required to maintain insurance and pay taxes for land they cannot use for the specific purpose for which it was originally leased.

"The current system leads to uncertainty and risk for our agricultural and ranching businesses. When the State withdraws land from these leases, the lessees can face serious financial consequences, and these uncompensated losses can drive our agricultural and ranching operations out of business.

"No business that invests significant amounts of capital and plans its business to operate at a certain size should be subject to a major change in the size or term of their lease part way through the lease agreement. By providing fair compensation for improvements or loss revenue when lands are withdrawn from a lease, this bill will help our agricultural and ranching businesses recoup their out-of-pocket or expectation losses incurred when lands from leases are withdrawn.

"As the Hawaii Cattleman's Council testified before the Committee on Water, Land, and Ocean Resources, 'A rancher that loses grazing land can't just load up his cattle and head to the nearest livestock auction and get a high breeding value for his cattle. At best, the rancher can only get a much lower slaughter value and that is only if a local slaughter house can fit them into their schedule on a timely basis.'

"Mr. Speaker, another reason I support this measure is because many lenders are reluctant to provide financing to our ranchers and farmers since land from the pastoral leases can be so easily withdrawn with no compensation. This clearly creates risk for these lenders. Therefore, if we provide compensation for out of pocket and expectation losses, lenders will hopefully have further insurances that their loans are secure, incentivizing lenders to provide loans to our local ranching and farming businesses.

"While some might argue that this bill pits the interest of agricultural against those of renewable energy facilities, these are not opposing priorities. This bill only provides lessees with fair and reasonable compensation for improvements and lost revenue in the case of lands being withdrawn for a long term lease, and does not prevent the usage of lands for renewable energy facilities even if those lands are currently being used for agricultural or ranching purposes. For these reasons Mr. Speaker, I stand in support. Thank you."

Representative Thielen rose to respond, stating:

"Thank you. I'm still opposed and let me just go on and respond to a few of the issues raised by the prior speaker. Mr. Speaker, she's talking about the instance where I believe it was the Palila Critical Habitat Mitigation Lands Easement that was placed on certain pasture leases on Maunakea. DLNR staff researched the real property taxes lessees pay on the easement areas and determined that the amounts were negligible.

"The County Rural Property Tax Division classifies the easement areas as waste with the result that the total annual real property tax on 2,226 acres easement area under one lease was, guess what: 84 cents a year. That's all the rancher had to pay. If an easement allows a lessee to continue beneficial use of easement area, then it is not unreasonable to require the lessee to bear nominal costs of insurance for that property that the lessee is continuing to use.

"About the breeding stock, that the animals can't be relocated or marketed. The lessee would normally have one or two years more notice of an impending taking of leased land. Accordingly, the Department believes that a pasture lessee would have ample time in that one or two years to plan for the relocation or sale of livestock, and that the proposed amendments in this bill would only encourage damage claims against the State. We earlier passed a bill that we had to pay damage claims against the State. This bill passes, and you're going to see those claims galloping to the Legislature for the next Legislature to have to act upon. Thank you."

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

"Mr. Speaker, in support. Mr. Speaker, in Conference we used Senate Bill 2951, SD 2, HD 2. But in Conference Committee, we went back to Senate 2951, SD 2. So I think the previous speaker is talking about the HD 2 and not the SD 2. Thank you."

Representative C. Lee rose to speak in support of the measure with reservations, stating:

"Thank you Mr. Speaker, I still have concerns with a different portion of this bill, but I'd just like vote with reservations. Thank you."

Representative Thielen rose and stated:

"Just a point of clarification. I'm talking about the Conference Draft."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2951, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Ching being excused.

Conf. Com. Rep. No. 136-10 and H.B. No. 2775, 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. 2775, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 141-10 and H.B. No. 2583, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2583, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, just with reservations. I believe that this bill could have some constitutional problems. Thank you."

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

"Mr. Speaker, I rise in strong support of the measure. The purpose of this bill is to ensure the safety of ocean recreation by banning shark feeding in State marine waters. Last year the issue of shark feeding came up, very up-close and personal in my district. Over 300 angry, frustrated, they didn't have pitchforks or torches, but they were really upset about what was going on in Maunaloa Bay.

"A very zealous young man started chumming the waters because he was planning to do a shark tour business right in Maunaloa Bay where some of you may swim, kayak, fish, ski, etc. Because shark feeding requires chumming or throwing blood, or bait into the water to attract sharks, the practice of doing this in our State waters where ocean activities perhaps is the number one form of recreation. It represents a severe hazard to all in the water. Surfers, swimmers, paddlers, skiers and the like.

"The risk that shark feeding presents is not a temporary one either, Mr. Speaker. Repetitive shark feeding is believed to result in changes in shark behavior and oceanographic deployment. In short, shark feeding causes them to take over areas that ordinarily they would not be in. I know Mr. Speaker, there's a lot of claims and counterclaims about the Pavlovian response is true. The other side says it is not true. Here's the data. The data is very sketchy. The research has been far and in between, but basically it's the way fishermen determine where they fish. You fish where the fish are. And I think that's the conclusion that many people who think that we should be very careful about public safety have rested their case.

"The precedent that this type of legislation is legal or constitutional is that there have been bans already on the feeding of wild animals. Federal law for example Mr. Speaker, governs the areas of oceans from three miles out and beyond, to 200 miles. It forbids the feeding of sharks already. Florida for example also bans the feeding of sharks in their state waters as in Alaska, Arizona and California, where laws are in place to prohibit the feeding of animals because of the danger of changing their feeding patterns.

"Mr. Speaker, this is an outstanding opportunity to ensure the safety of our people and the confidence of our visitors. I encourage my colleagues to support this measure because we already have feeding laws, and the major problem is that these laws are not being enforced. Essentially because the present fines prior to this bill were so small, they were not worth complying with or enforcing. In the discussions with my community through surveys and town hall meetings, it seemed that the major concern was a lack of compliance and enforcement.

"Banning shark tours altogether however, would have been very rash and I'm very pleased that this bill is very reasonable, and it tells our tour operators that you are welcome to operate your business if you are following the rules. Bottom line Mr. Speaker, no chumming or feeding of the sharks.

"And I know because of your district this is very upfront and personal to you. Because if they do chum or feed the sharks, now there are fines that begin at \$5,000, up to \$15,000, and even more seriously the impoundment of their vessel.

"Bottom line Mr. Speaker, now it's all about enforcement. No law, no penalty, no threat will ever be worthwhile no matter what we pass in this Body unless there are enforcements. Lastly Mr. Speaker, may I add comments into the Journal. Thank you."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am presenting written comments in strong support of HB 2583. The purpose of this bill is to ensure the safety of ocean recreation by banning shark feeding in state marine waters.

"Last year, the issue of shark feeding as it pertains to public safety was one of the biggest issues to face my district. In April of 2009, over three hundred angry East Honolulu residents met in Hawaii Kai at a town hall meeting I hosted to discuss the proposed feeding of sharks in Maunalua Bay. Although we managed to stop the tour from opening in Hawaii Kai, the situation opened our eyes to the dangers presented by shark tour operators who break the law by feeding sharks.

"During the interim between the 2009 and 2010 Sessions, I went door-to-door, passed out surveys and held an additional town hall meeting to determine where my community stood with regards to legislation that would ban shark tours. The responses were very mixed, some members wanted to ban shark tours because of their feeding practices and others balked at the idea of shutting down a business. As a compromise, I presented the community with legislation that would tighten existing feeding laws by imposing increased penalties including a \$140,000 fine and the forfeiture of equipment including the tour operator's vessel. At the August town hall meeting where I proposed this legislation, most of the community confirmed that the real problem was conformity with the shark feeding laws rather than the tours themselves. So, while others pursued

shutting down the tours entirely, I pushed to stop their feeding practices because I felt it was more in keeping with the will of my community.

"Mr. Speaker, it gives me great pleasure to have seen this bill come before us because it fits so closely with what many members of my community called for. That is, increased penalties for illegal shark feeding practices, a greater incentive for DLNR to enforce the rules and allowing tour operators to continue entertaining tourists and bringing valuable dollars into our State if they are willing to follow the law.

"Mr. Speaker, I also want to commend all the members of my district who worked to get this legislation passed. I recognize that it is not everything that everyone wanted, but as I said, I think it represents a compromise that gets us closer to a safer Hawaii."

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

"Thank you, Mr. Speaker. I rise in support of this. In addition to that I wish to thank both Chambers for putting this legislation through because as the Representative from Hawaii Kai just shared, we share the same district, and many of us even though we represent inland districts, all of us are subject to the dangers of the water. So 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. 2583, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPOUNDED VESSELS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 144-10 and H.B. No. 2133, 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. 2133, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 148-10 and H.B. No. 2542, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2542, HD 1, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2542, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," passed Final Reading by a vote of 46 ayes to 4 noes, with Representatives Finnegan, Marumoto, Pine and Thielen voting no, and with Representative Ching being excused.

At 5:31 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2951, SD 2, HD 2, CD 1
 H.B. No. 2775, HD 2, SD 2, CD 1
 H.B. No. 2583, SD 2, CD 1
 H.B. No. 2133, HD 1, SD 1, CD 1
 H.B. No. 2542, HD 1, SD 2, CD 1

Conf. Com. Rep. No. 149-10 and H.B. No. 2318, HD 2, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2318, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 2318, HD2, SD1, CD1. On any given day, you can move around our communities and a common sight you will see is homeless or houseless individuals or families. If you open the newspaper, the favorite topic of the day is the misery of the homeless or how these homeless individuals skirt State law or county ordinances.

"Mr. Speaker, homelessness is a huge problem, not just on Oahu, but in our entire State.

"HB 2318 is the adoption of the Housing First model. This is a model with proven results in eight different cities across the mainland. This measure will address those 20% of the homeless population who are least likely to attain sustainability, or even admitted into homeless shelters or public housing. This program specifically targets those who are mentally ill or drug addicted; the subset of the homeless population who are chronically homeless because of their mental illness or drug addiction. It is this segment that can be dangerous to society. By stabilizing the lives of these chronically homeless individuals, we are therefore promoting safety for all of us.

"This homeless program helps us as members of the general population by keeping our communities clean, safe, and most importantly, removes the blight that may be brought upon our communities by these types of individuals.

"We need to help this population Mr. Speaker, because by helping them, we are helping ourselves."

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

"I'm sorry, Mr. Speaker. I just wanted to declare a potential conflict. I occasionally work for a homeless shelter," 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. 2318, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 150-10 and H.B. No. 2000, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2000, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"In support. I would like to insert written comments and I just wanted to thank the Finance Chair for working with me on this budget, as well as addressing appropriations for the specialty courts which will save the State money in the long run and also turn these individuals' lives around and can make a comeback in their life. Thank you."

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I am in favor of House Bill 2000 House Draft 2, Senate Draft 2, Conference Draft 1, which provides the Judiciary with supplemental appropriations and authorizations for its operations and capital improvements for fiscal biennium 2009-2011 by amending the Judiciary Appropriations Act of 2009.

"Dramatic reductions of projected State revenue have resulted in a \$1,200,000,000 budget gap through the end of the current fiscal biennium. In response, the Governor restricted fiscal year 2009-2010 Executive Branch expenditures by an amount equal to 13.85 per cent of payroll and proceeded to reduce the supplemental budget request of Executive Branch agencies for fiscal year 2010-2011 by a similar percentage. This amount is based on the projected savings that three furlough days per month would accrue. Though the Judiciary officially requested that its general fund budget for fiscal year 2010-2011 be maintained at its current appropriation

level, a similar reduction to the Judiciary's budget would be approximately \$12,000,000.

"To reflect the Judiciary's two-day per month furlough savings in a manner comparable to that of other State agencies, the Judiciary budget was reduced by a total of \$8,000,000 in general funds as calculated by the Department of Budget and Finance. An additional lump sum reduction of \$1,500,000 was imposed to allow the Judiciary to allocate this reduction in accordance with its priorities. The total reduction, which is significantly smaller than that imposed on most other State agencies, affirms that, on a statewide level, the Legislature has prioritized the core responsibilities of the Judiciary.

"Additionally, the Legislature was persuaded by the case made by Judiciary officials and others for specialty courts; that the cost of incarcerating individuals far exceeds that of enrolling them in these programs and that recidivism is markedly decreased for those participating in these programs. Information provided indicates that the annual cost for 387 adult inmates to participate in the Adult Drug Court is \$3,100,000, while the annual cost to incarcerate these same inmates is in excess of \$19,600,000 (\$139 per day, per inmate or \$50,735 per year, per inmate).

"Similarly, the annual cost for 68 youth offenders to participate in Juvenile Drug Courts is approximately \$1,000,000, while the annual cost to detain these same juveniles is approximately \$6,590,000 (\$278 per day, per offender, or \$101,470 per year, per offender).

"Significant savings are also realized under the Hawaii's Opportunity Probation with Enforcement ("HOPE") program, which costs approximately \$1.82 per day, per probationer, versus \$139 per day per inmate.

"In acknowledgement of the arguments made and the information provided by the Judiciary, \$1,300,000 has been provided for the Judiciary's specialty courts. The Legislature will review future data affirming the cost effectiveness of these programs.

"In total, this measure appropriates \$130,730,624 in general funds and \$141,747,129 in all means of financing for the fiscal year 2010-2011 operating budget of the Judiciary.

"In 2006, the Legislature appropriated funds for master planning for capital improvements and other physical facilities-related projects for the Judiciary. This plan is anticipated to be completed during the summer of 2010. The completion of the master plan will assist the Judiciary, as well as the Legislature, in better understanding the future needs for new facilities and for repair and maintenance projects within the Judiciary's purview. Additionally, this information will prove valuable in assessing short- and long-range funding needs, as well as the ability of the Judiciary to execute and complete the work determined necessary under this plan.

"Consequently, given the strained economic climate and the fact that it would be prudent to review the master plan before proceeding with further funding as requested, the Legislature has provided no additional capital improvements program funding to the Judiciary for fiscal year 2011.

"Given the fiscal constraints the State of Hawaii is facing, I am pleased with the supplemental appropriations for the Judiciary, which supports necessary services for the people of Hawaii. 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 support of this measure. This bill is the Judiciary's supplemental budget, and the most important feature of this budget is the appropriation of \$1,300,000 for the specialty courts and essential ancillary services. These courts have a proven track record to reduce recidivism which in turn reduces crime and ultimately saves taxpayers money. In particular, the Hawaii's Opportunity Probation with Enforcement (HOPE) program is the first of its kind in the nation and is being used as the model for other similar programs across the country.

HOPE has received national attention in such publications as *The New York Times* and *Governing* magazine. These results have been verified by Dr. Angela Hawken, a professor of economics and policy analysis from Pepperdine University. She should be publishing her final results soon, but the preliminary information is still very compelling.

"Some of the statistics for the HOPE program are quite startling:

- Less than fifteen percent of participants in treatment had a negative perception of the HOPE program;
- The percentage of probationers rearrested in the HOPE program is 21% versus 47% in the control group;
- Positive urine test results are 13% in the HOPE program versus 46% in the control group; and perhaps most dramatically,
- It costs the State \$139 per day to incarcerate an individual. The HOPE program costs \$1.82 per day, a tremendous cost avoidance.

"Mr. Speaker, I want to take a few moments to express my sincere gratitude and appreciation for the Chair of the House Judiciary Committee, Representative Jon Riki Karamatsu. From his days as a legislative assistant for Representative K. Mark Takai and Senator Carol Fukunaga in the late '90s and early 2000s, Representative Karamatsu became a Member of the House of Representatives in 2002. Over the years, I have watched him grow both personally and professionally and develop into a thoughtful, determined, and compassionate leader.

"As the Chair of the Judiciary Committee, he has conducted public hearings and passed various pieces of noteworthy legislation. A brief overview of some of the important legislation approved during his tenure as the Chairman of the House Judiciary Committee is listed as follows:

- Strengthened the existing Penal Code laws to make the use of a simulated firearm during a robbery in the first degree and while committing an act of terroristic threatening in the first degree.
- Extended the same rights, benefits, protections, and responsibilities of spouses in a marriage to partners in a civil union.
- Extended the "sunset" date of Act 192, Session Laws of Hawaii 2008, which makes habitual solicitation of prostitution a criminal offense, to June 30, 2012.
- Updated, organized, and clarified current campaign financing laws.
- Prohibited the use of leaf blowers on or near residential zones, except within allowed time periods.
- Established class A and B felony sexual human trafficking offenses. This includes sexual human trafficking offenses in the official proceedings or investigations that are to be given greatest priority for purposes of witness protection programs.
- Established the crime of intentionally or knowingly taking of a Hawaiian monk seal as a class C felony.
- In medical tort litigation, authorized the court to impose sanctions on a non-prevailing party whose rejection of the Medical Claim Conciliation Panel's decision resulted in the subsequent litigation.
- Addressed the illegal importation, sale, and transfer of fireworks by including samples in the definition of "fireworks" and establishing nuisance abatement and forfeiture actions to discourage those illegal activities.
- Established an illegal fireworks task force to stop the importation of illegal fireworks and explosives. This measure would also allow counties to enact ordinances regulating fireworks that are more stringent than State law regulating fireworks.

➤ Mandates were created to require a person convicted of criminal property damage involving graffiti to remove the graffiti within 30 days of sentencing and to perform community service removing graffiti from within 100 yards of the site of the offense.

➤ Established rules to determine which state has jurisdiction in adult guardianship and conservatorship cases where person has contacts with more than one state.

➤ Established a comprehensive child abduction prevention law.

➤ Strengthened Hawaii's animal cruelty laws by passing legislation that created an offense of confinement of a dog by tethering under prescribed circumstances with certain exceptions; and legislation that would require veterinary care for pets and require certain standards for pets kept in kennels or cages.

"And finally, Representative Karamatsu was also instrumental in the establishment of Peace Day ceremonies here in Hawaii, held every year on September 21st. Peace Day was implemented to promote peace programs, improve international relations, and increase educational awareness of peace.

"Through it all, Representative Karamatsu has displayed genuine concern for all points of view and the fortitude required to be a Chair of a very contentious Subject Matter Committee. He leaves this Body with a substantial list of accomplishments and his time in service will benefit the State of Hawaii for years to come. I wish Representative Karamatsu the best in his future endeavors and a fond aloha."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2000, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 152-10 and H.B. No. 2698, HD 2, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2698, 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. With reservations and short comments. Thank you, Mr. Speaker. This is the broadband bill. I understand that the issue of broadband and a bill moving forward has been kind of controversial. But I did want to say although I do support this bill, it doesn't take care of the major obstacles in which I would hope that a broadband bill would take care of. But in the meanwhile this bill is okay. Thank you."

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

"Thank you very much, Mr. Speaker. In support. Very quickly, this bill is a good example of how sometimes bills evolve. Four years ago, the Chair of Finance came up with a bill to address internet service throughout the whole State. It evolved into the broadband bill, and then it evolved into the Broadband Task Force, and then evolved into a bill that was 60-something pages thick. Through discussions with the community and what this bill would actually do, it kind of narrowed into something that we have before us today. I think it is a good compromise going forward, and I would like to put additional comments into the Journal. Thank you."

Representative Yamashita's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 2698. In 2007, the Legislature established a Hawaii Broadband Task Force. The task force developed a long-term, statewide strategy to offer affordable internet access. They also identified opportunities for increased broadband deployment and very high speed broadband services. HB 2698 implements these recommendations.

"The purpose of HB 2698 is to ensure access to broadband communications for all, and to increase availability of advanced broadband services at an affordable cost. It also increases access to public rights-of-ways for broadband service providers and brings the counties together to develop a streamlined permit approval process to reduce the cost of infrastructure.

"This measure allows the Legislature to establish a Broadband Advisory Council. This Advisory Council will be responsible to monitor broadband development efforts, activities at the federal level and offer regulatory and policy advice to the Department. 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. 2698, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 153-10 and S.B. No. 2849, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2849, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Finnegan rose, stating:

"Thank you, Mr. Speaker. This is a bill having to do with the Hawaii Employer Union Health Benefits Trust Fund, a very important bill. And as you know Mr. Speaker, the Governor had sent down a letter requesting that we look into this one million dollars lost per month on the EUTF.

"Mr. Speaker, what this bill does, half of it is really good. It talks about the voting and maybe a way that we can get out of this stalemate that we're at. But the other half of the bill actually bypasses the allotment process where you would actually have the Governor be in that process. It goes around that.

"And number one, I feel that this does set a precedent that we should not set. And number two, I believe that by doing that it is unconstitutional and that we will have some problems with this bill. Thank you."

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

"Thank you, Mr. Speaker. I'm with reservations for the same reason. I believe that the portion that mandates that the Governor and Director of Finance release the money not being subjected to the allotment process would be unconstitutional. So we would be passing a bill that would not be upheld. Thank you."

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

"Mr. Speaker. I rise in support of this bill. Just a couple of points that need to be made. Regarding the section of the bill that deals with Chapter 37, this requires all the appropriations made by the Legislature to the EUTF which is transferred to the Budget and Finance Department shall be transferred directly to the Employee Union Trust Fund, and not be subject to the allotment procedures under Chapter 37 HRS, or subject to the powers granted to the Governor and the Director of Finance under Section 37-32, to 37-41, Hawaii Revised Statute.

"A second point needs to be made that it changes the voting requirements to allow the public employer, and employee beneficiary trustees to vote individually rather than a block as under the current law.

"And number three, it provides that all contributions and premiums to the EUTF be for the exclusive use and benefit of the EUTF employee beneficiaries and dependent beneficiaries, and not be subject to appropriations or transfers for any other purpose.

"The reason why this provision is so important is that several years ago when the Legislature made its appropriation to the EUTF through Budget and Finance, those moneys were taken out of Budget and Finance and used

to address some of the homeless concerns on the Leeward Coast without the legislative approval or agreement with that expenditure. It was about \$40 million. Going back to that point in time, there may have been concerns about what that money was not used to address the current reserves requirements in the account. So that's what that provision is there for, to ensure that the moneys that we appropriate go towards its intended purpose, strictly for the EUTF Fund, both for the employer and for the employees. 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. 2849, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Final Reading by a vote of 51 ayes.

At 5:39 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2318, HD 2, SD 1, CD 1
H.B. No. 2000, HD 2, SD 2, CD 1
H.B. No. 2698, HD 2, SD 2, CD 1
S.B. No. 2849, SD 2, HD 1, CD 1

Representative B. Oshiro moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried:

H.B. No. 840, HD 1, (SD 1)
H.B. No. 2003, HD 3, (SD 2)
H.B. No. 2083, HD 1, (SD 2)
H.B. No. 2721, HD 1, (SD 1)
H.B. No. 2129, HD 1, (SD 1)
H.B. No. 2708, HD 1, (SD 1)

The Chair addressed the Clerk who announced that the record of votes for said measures had been received which indicated that a quorum was present at decision making, and that the requisite number of House Conferees appointed had cast affirmative votes to report said measures to the Floor.

H.B. No. 840, HD 1, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 840, HD 1, on the following showing of Ayes and Noes:

Ayes, 3 (Karamatsu, B. Oshiro and Thielen). Noes, none. Excused, none.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 840, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARGING BY WRITTEN INFORMATION," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Rhoads voting no.

H.B. No. 2003, HD 3, SD 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2003, HD 3, on the following showing of Ayes and Noes:

Ayes, 4 (Karamatsu, M. Oshiro, Luke, B and Oshiro). Noes, none. Excused, 1 (Marumoto).

Representative B. Oshiro moved that H.B. No. 2003, HD 3, SD 2, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support with some slight reservations on House Bill 2003, Senate Draft 2. Thank you Mr. Speaker, I stand in support of this measure, particularly because it is the culmination of the work of the Campaign Spending Commission's Blue Ribbon Committee that looked at recodifying, updating, clarifying and improving the overall campaign spending law. But as we well know, there is a shift going on right now in the way that money is being spent in elections both at the federal and state levels. So as we all know also very well, campaign finance laws are going to be continued works in progress.

"There are a few areas that this bill does not address that did not fall into the arena of the recodification process, but I would hope that future legislatures will take these up. Things like looking at how corporate treasuries are able to have the same participation rights in donating as natural persons under the new Citizens United Case Law that's coming down from the US Supreme Court.

"This bill also has areas of not providing enough transparency for independent expenditures of corporations that should also be revisited at some point in the future.

"And finally, this bill does weaken some existing laws by increasing the cap on contributions from the mainland, as well as allowing additional funds to be used for the seating of the community by candidates.

"So Mr. Speaker, because of these areas that are fruitful for future improvement, I will be voting with reservations on this bill. Thank you."

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

"Mr. Speaker, in support. I would like to insert written comments. I also would like to insert three letters into the Journal. The first letter stating that we accept the Senate Draft 1, from the Campaign Spending Commission.

"Upon that letter our office found mistakes in references, and then a second letter saying that they would not enforce those mistakes.

"And a third letter, a letter from myself accepting their offer to not enforce the misstated references, and in my consideration reliance, I passed SD 1. Thank you."

Representative Karamatsu's written remarks are as follows:

"I rise in support. The campaign finance laws, codified in Chapter 11, subpart B of part XII, Hawaii Revised Statutes (campaign finance laws), are unorganized, difficult to read, and inconsistent in some areas, due to the numerous amendments that have been made to these laws over the past thirty-seven years. To address these concerns, the Campaign Spending Commission's Blue Ribbon Recodification Committee (Committee) reorganized the existing campaign finance provisions in the campaign finance laws, by dividing long sections into shorter sections with clear titles for quick reference and group laws on one subject together, among other things. The product of the Committee's work was introduced during the 2009 Regular Legislative Session. That measure, House Bill 128, Conference Draft 2 (2009), was passed by the 2009 Legislature, but was subsequently vetoed by the Governor.

"The Commission then met with the Governor's staff to discuss the reasons for the veto. The Commission submitted testimony earlier to your House and Senate Judiciary Committees, stating that two concerns remained unaddressed after these discussions: the number of nominees from which to select commissioners, and the exception of competitively bid contracts from the campaign contribution prohibition.

"This measure, and its companion, Senate Bill 2251, were introduced at the Commission's request during the 2010 Regular Legislative Session. Both of these companion measures addressed the Governor's concerns, but also made additional changes and amendments, some of which were

substantive rather than simply recodifying and reorganizing the existing campaign finance laws. During hearings before the House of Representatives, other changes and amendments were made to House Bill 2003; some of these amendments were also substantive, although favorable for the campaign finance laws.

"The Senate Judiciary and Government Operations Committee amended Senate Bill 2251 by replacing its contents with the contents of House Bill 128, Conference Draft 2 (2009), making changes to address the Governor's remaining concerns with House Bill 128, Conference Draft 2 (2009), and making technical, nonsubstantive changes. Your House Judiciary Committee did not move Senate Bill 2251, Senate Draft 1 but instead agreed that the Senate Judiciary and Government Operations Committee would move House Bill 2003, House Draft 3.

"Accordingly, the Senate Judiciary and Government Operations Committee amended House Bill 2003 by replacing its contents, except as set forth below, with the contents of Senate Bill 2251, S.D. 1. The exceptions are as follows:

- 1) Inclusion of a new section to provide for transparency and to indicate that the campaign finance laws should be construed to support transparency;
- (2) Amendments to the definitions of "contribution" and "other receipts" to exclude loans, so that reporting of loans to candidate committees will be reported as loans rather than as contributions or receipts, lessening confusion between these categories;
- (3) An amendment to the definition of "election period" to clarify the election period for a special election;
- (4) Reinsertion of language from existing campaign finance laws regarding the obligation of the Judicial Council to meet and expeditiously select additional persons for the list of nominees whenever the number of the eligible nominees falls below five, as requested by the Chief Justice;
- (5) Clarification regarding the authority of the Commission to dismiss persons employed by or contracted with the Commission, to emphasize that such authority is discretionary; and
- (6) Insertion of a provision from H.B. No. 2003, H.D. 3, regarding ballot issue committees.

"Upon receipt of House Bill 2003, House Draft 3, Senate Draft 1 from the Senate, your House Judiciary Committee found technical errors in several sections of the bill that wrongly referenced other sections of the bill. Our House Majority Staff Office attorneys differed with our House Judiciary Committee attorneys when they explained that the errors were substantive rather than technical.

"Your House Judiciary Committee received a letter from the Campaign Spending Commission asking it to pass House Bill 2003, House Draft 3, Senate Draft 1. We informed the Commission of the errors in the measure. The Commission followed up with a letter stating that they would not enforce the wrong references, thus, current law for those sections would not change and would be enforced as it were prior to these changes. Your House Judiciary Committee replied with a letter accepting the Commission's offer to not enforce the several wrong references, and in reliance and consideration of that agreement, your House Judiciary Committee agreed to House Bill 2003, House Draft 3, Senate Draft 1.

"I want to thank the Campaign Spending Commission, Senate Judiciary and Government Operations Committee, as well as my staff on the House Judiciary Committee for all their hard work. Thank you."

Representative Karamatsu submitted the following letters:

BARBARA WONG
EXECUTIVE DIRECTOR



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

PHONE: (808) 586-0285
FAX: (808) 586-0288
www.hawaii.gov/campsp

APR 14 2010

April 14, 2010

The Honorable Jon Riki Karamatsu
Co-Chair, Conference Committee
Hawaii State Capitol, Room 302
Honolulu, HI 96813

The Honorable Marcus Oshiro,
Co-Chair, Conference Committee
Hawaii State Capitol, Room 306
Honolulu, HI 96813

RE: HB 2003, HD3, SD2 (2010)

Dear Chair Karamatsu and Chair Oshiro:

Our office appreciates your assistance and leadership on campaign spending matters in prior years and during the 2010 legislative session.

We have reviewed the current version of the bill and respectfully request that the House Conference agree to changes made by the Senate to HB 2003, HD3, SD2.

As you know, it is difficult working with a lengthy bill. If any future changes are needed, it will be much easier to deal with on a section by section basis, rather than within the context of a 107 page bill. The Blue Ribbon Recodification Committee, the Legislature and especially the Committee Chairs, and us have worked long and hard on this bill that will simplify and clarify the law for all.

Please call us at 500-0205 if you or your staff need additional information or have questions.

Sincerely,

Barbara U. Wong
Executive Director

C: Chair Brian Taniguchi, Conference Committee on HB 2003, HD3, SD2
The Honorable Calvin Say, Speaker of the House of Representatives
The Honorable Colleen Hanabusa, Senate President

The Honorable Jon Riki Karamatsu
The Honorable Marcus Oshiro
April 22, 2010
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and contributions received from the candidate's immediate family does not exceed \$50,000 during an election period.

While the appropriate reference in subsection (b) should be to §11-JJ, rather than §11-HH, we believe that there is no immediate impact from passing this section as is and fixing it in the 2011 Legislature.

If an immediate family member is an officer, employee, or shareholder of a government contractor, they are permitted under current law to make contributions. If the immediate family member is a sole proprietor government contractor, the immediate family member is permitted under current law to make contributions.

Moreover, the specific contribution limits in §11-LL (i.e., \$50,000 cap in the aggregate) would be applicable to loans and contributions from a member or all members of the immediate family, rather than the general contribution limits of \$2,000, \$4,000, and \$6,000 in §11-JJ.

Please call us at 586-0285 if you or your staff need additional information or have questions.

Sincerely,

Barbara U. Wong
Executive Director

C: Chair Brian Taniguchi, Conference Committee on HB 2003, HD3, SD2
The Honorable Calvin Say, Speaker of the House of Representatives
The Honorable Blake Oshiro, Majority Leader of the House of Representatives

(2) Knowingly solicit any contribution from any person for any purpose during any period.
(b) Except as provided in subsection (a), this section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any noncandidate committee by any person other than the state or county contractor for the purpose of influencing the nomination for election, or the election of any person to office.
(c) For purposes of this section, "completion of the contract" means that the parties to the government contract have either terminated the contract prior to completion of performance or fully performed the duties and obligations under the contract, no disputes relating to the performance and payment remain under the contract, and all disputed claims have been adjudicated and are final.

BARBARA WONG
EXECUTIVE DIRECTOR



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

PHONE: (808) 586-0285
FAX: (808) 586-0288
www.hawaii.gov/campsp

April 22, 2010

The Honorable Jon Riki Karamatsu
Co-Chair, Conference Committee
Hawaii State Capitol, Room 302
Honolulu, HI 96813

The Honorable Marcus Oshiro
Co-Chair, Conference Committee
Hawaii State Capitol, Room 306
Honolulu, HI 96813

RE: HB 2003, HD3, SD2 (2010)

Dear Chair Karamatsu and Chair Oshiro:

Our office appreciates your assistance and leadership regarding the recodification of the campaign spending law in this bill

We have reviewed §11-LL, entitled Family contributions, in HB 2003, HD3, SD2, which provides as follows:

- (a) A contribution by a dependent minor shall be reported in the name of the minor but included in the aggregate contributions of the minor's parent or guardian.
- (b) A contribution by the candidate's immediate family¹ shall be exempt from section 11-HH;² provided that the aggregate amount of loans

¹ 11-B "Immediate family" means a candidate's spouse or reciprocal beneficiary, as defined in section 572C-3, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses or reciprocal beneficiaries of such persons.

² §11-HH Contributions by state and county contractors prohibited. (a) It shall be unlawful for any person who enters into any contract with the State, any of the counties, or any department or agency thereof either for the rendition of personal services, the buying of property, or furnishing of any material, supplies, or equipment to the State, any of the counties, any department or agency thereof, or for selling any land or building to the State, any of the counties, or any department or agency thereof, if payment for the performance of the contract or payment for material, supplies, equipment, land, property, or building is to be made in whole or in part from funds appropriated by the legislative body, at any time between the execution of the contract through the completion of the contract, to:

(1) Directly or indirectly make any contribution, or promise expressly or impliedly to make any contribution to any candidate committee or noncandidate committee, or to any candidate or to any person for any political purpose or use; or



HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

April 22, 2010

Via Hand Delivery

Barbara U. Wong
Executive Director
Campaign Spending Commission
235 S. Beretania St., Rm. 300
Honolulu, Hawaii 96813

Re: HB 2003, HD3, SD2 (2010)

The instant transmittal is sent to inform you that relying upon your letter dated April 14, 2010, which requested that the House Judiciary Conference Committee agree to the changes made by the Senate to the above-referenced bill and your letter dated April 22, 2010, which gave guidance, clarification, and the interpretation from the Campaign Spending Commission's Executive Director regarding the changes made to section 11-LL of HB 2003, HD3, SD2, my recommendation that the House Judiciary Conference Committee agree to the changes made to the bill in Senate Draft 2 has been adopted by unanimous vote of the House Judiciary Conference Committee.

Thank you for your efforts and if there are any questions with regard to the foregoing, please do not hesitate to communicate with the undersigned.

Office of Representative
JON RIKI KARAMATSU

By:
REPRESENTATIVE JON RIKI KARAMATSU
Chair, House Judiciary Committee

cc: The Honorable Senator Brian T. Taniguchi
The Honorable Representative Marcus R. Oshiro
The Honorable Calvin K. Y. Say, Speaker of the House of Representatives

Representative Jon Riki Karamatsu – Chair, House Judiciary Committee
District 41: Waialeale, Royal Kunia, Village Park, Waipahu
State Capitol, Room 427 – Honolulu, Hawaii 96813
Phone: 586-8490 – Fax: 586-8494
E-Mail: repkaramatsu@capitol.hawaii.gov

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

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

"Mr. Speaker, I have reservations and they've really been stated by the Representative from Makiki."

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 2003, HD 3, SD 2, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCING," passed Final Reading by a vote of 51 ayes.

H.B. No. 2083, HD 1, SD 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2083, HD 1, on the following showing of Ayes and Noes:

Ayes, 5 (Tsuji, Herkes, Karamatsu, Yamane and Marumoto). Noes, none. Excused, none.

Representative B. Oshiro moved that H.B. No. 2083, HD 1, SD 2, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm standing in support. Brief comments on HB 2083, Relating to Milk Labeling. Mr. Speaker, this was an idea spawned through many discussions. Basically this bill requires milk beverages to be labeled with the date of pasteurization and the date of packaging.

"Just for edification, it does not apply to soy milk. It will be effective January 1st, 2011 to give local, as well as mainland dairies the opportunity to work on the stamping process. It applies to milk beverages containing 100% weight of milk that is sold in the State. And it addresses putting the pasteurization date and the date of packaging on the milk products.

"Mr. Speaker, this is a good consumer awareness issue. This also highlights and supports our local dairies. Mr. Speaker, this bill has had a couple of reviving periods as it progressed through the process. However, using good marketing principles, and supporting and pursuing our local dairies, as well as employees that are employed in the State that do pasteurization, I'm very happy that this bill is before us today. Thank you."

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 H.B. No. 2083, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO MILK LABELING," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Finnegan voting no.

H.B. No. 2721, HD 1, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2721, HD 1, on the following showing of Ayes and Noes:

Ayes, 3 (Karamatsu, Tsuji and Thielen). Noes, none. Excused, 1 (Souki).

Representative B. Oshiro moved that H.B. No. 2721, HD 1, SD 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 No. 2721, House Draft 1, Senate Draft 1. The purpose of this measure is to authorize certified shorthand reporters to administer oaths and affirmations in the performance of their duties as deposition officers without the necessity of being notaries public. This will help make the process faster for this important service in our legal system. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2721, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO COURT REPORTERS," passed Final Reading by a vote of 51 ayes.

H.B. No. 2129, HD 1, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2129, HD 1, on the following showing of Ayes and Noes:

Ayes, 3 (Karamatsu, Aquino and Thielen). Noes, none. Excused, 1 (Nakashima).

Representative B. Oshiro moved that H.B. No. 2129, HD 1, SD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In strong support with written comments."

Representative Aquino's written remarks are as follows:

"Thank you, Mr. Speaker. I am standing in strong support. This bill, Mr. Speaker, has good intentions as we continue to struggle in the battle to protect our communities from vandalism and graffiti.

"House Bill 2129 requires anyone who is convicted of graffiti to clean the site of the offense and clean up any other subsequent graffiti within a 100 yard distance for up to two years. This is a dramatic strengthening of current penalties. This bill has great promise and sends a clear message of deterrence and accountability.

"In my district of Waipahu, graffiti seems to magically appear throughout the neighborhoods at anytime of the day, anytime of the week, and anytime of the year. In the past, walls surrounding residences were taggers' primary targets. Now, it is anything that is visible. You name it. Graffiti can be found on anything public or privately owned. Aside from

your typical walls on the corner of a residential area, graffiti can be found on street signs, light poles, electrical boxes, bus stops, business places and even on trees.

"It is my hope that this measure will be an effective tool in curbing this problem we face throughout the State. Thank you."

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 to support House Bill 2129. I also support that these criminal offenders will be required to remove graffiti from within 100 yards of their site of the offense, and to reimburse property owners for two years for costs incurred in all those graffiti removals within those 100 yards.

"Whether the property effaced is public or private, these offenders violate an implicit agreement that citizens respect the work and attainments of one another, as well as the informed aesthetic choices of design planners. Residents and visitors labor to earn their property or the taxes they pay on public property, so it is utterly contemptuous and disrespectful for casual by-passers to freely override such hard-earned decision making opportunities. If we fail to properly discourage graffiti abuse, we will diminish incentives for Hawaii residents to attain those lucrative jobs which will equip them to acquire property. A continuous spread of graffiti would also mar the State's aesthetic publicity, repelling potential visitors from Hawaii while the State's tourism economy is at its most fragile. Thank you."

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

Representative Choy's written remarks are as follows:

"Mr. Speaker. After consultation with my staff member, Heather Lee, I submit written comments to the Journal in strong support of the bill Relating to Graffiti. The intention of this bill is to clean up and beautify our streets and neighborhoods by devising a sentencing plan that requires offenders to remove any and all graffiti to damaged properties within a one-hundred yard radius of the site of the offense.

"At the present, graffiti is a growing problem in the State of Hawaii, and we must be proactive to decrease these acts of vandalism in our backyard. I believe that the type of legislation that is being proposed in this bill is a step towards enforcing social rules and establishing a sense of responsibility amongst the members of our community. By requiring offenders to clean up any unwanted graffiti near to the site of their offense we, the legislature, are setting the tone that:

- 1) Desecration of our island is unwanted and punishable, and
- 2) We are not individuals in this State and we must cooperate to keep our community clean.

It is through vigilant anti-graffiti action and the promotion of social responsibility that we will be able to keep Hawaii pristine.

"Therefore, I believe that vandalizing public and private property is a crime, and while I do acknowledge that in certain venues graffiti can be seen as artwork, the tagging and intentional defacing that exists on the sides of buildings and bus stops must stop. Passing this bill will not only benefit our districts, but will also preserve the appearance of the State of Hawaii now and to come. Thank you."

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

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

Representative Pine rose in support of the measure 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 strong support of House Bill 2129, Relating to Graffiti. This bill will require a person convicted of criminal property damage involving graffiti to remove the graffiti within 30 days of sentencing and to perform community service removing graffiti from within 100 yards of the site of the offense.

"Mr. Speaker, this is another tough on crime bill. Graffiti is an eyesore in our communities. The financial burden on government, community associations, and individuals who address this issue is costly. This burden should be placed on the person committing the crime, and not on the victims. The community service provision will benefit Ewa Beach and teach the offender that their criminal act comes with a cost."

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

"In strong support, with written comments please."

Representative Nakashima's written remarks are as follows:

"As elected officials, we hear the word, 'accountability' very often. We are accountable to our constituency for our actions. This is an important concept, not just for the Members of this Body, but for everyone to embrace and remember. It is accountability to each other that makes a group of people a community.

"This bill seeks to utilize this important value to ensure that people who deface others' property with graffiti be accountable and clean it up. It goes further by requiring the offender to be responsible for the area 100 yards around the location that the offense occurred. I believe this requirement, while extending beyond the offender being accountable for him or herself, is important in teaching the offender that we are all members of the community and responsible to each other. I commend the Representative from Waipahu for championing this bill."

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

"In strong support, and may I have the words of the speaker from Waipio Gentry entered into the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Keith-Agaran rose to speak in support of the measure, stating:

"In strong support with written comments."

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

"Thank you, Mr. Speaker. I rise in support of this bill. HB 2129, H.D. 1, S.D. 1 requires a person convicted of criminal property damage involving graffiti to remove the graffiti within 30 days of sentencing and to perform community service removing graffiti from within 100 yards of the site of the offense.

"Graffiti is a serious and costly problem for every Hawai'i community each year. Tags mar public buildings in parks, schools, shopping centers, private warehouses, and on roadway signs and highways. I commend my six freshmen House colleagues who joined together in introducing this bill which doesn't just create tougher penalties for offenders. This bill proposes to deter convicted taggers by making them responsible for graffiti in the neighborhoods they damaged and marred for up to two years, in addition to any other penalty available under current law. Making them the caretakers for the areas they tagged is appropriate punishment. Hawaii is a beautiful place and maintaining that beauty for our residents and visitors is very important. These additional obligations on taggers will make would-be offenders think twice before they act.

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

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

Representative Wooley's written remarks are as follows:

"Working on this bill was such a pleasure this Session. The freshmen decided to set aside differences in opinion and background in order to put our communities first. After extended discussions, we identified shared values and priorities. HB 2129: Relating to Graffiti, was a bill that symbolized our belief that in these tough times, we must find new and better ways to prevent crime and make our communities even better, without costing taxpayers a dime.

"This bill requires a person convicted of criminal property damage involving graffiti to not only remove the graffiti, but also take responsibility for removing graffiti near the site of the offense, or reimburse property owners for costs incurred for removing graffiti in the same area.

"The concept behind this new approach will be to make those convicted for vandalism responsible for preventing it, and give them reason to start caring about keeping our community clean. I'm hopeful that this bill is the beginning of the end of all unauthorized graffiti and vandalism in Hawaii."

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

"Thank you, Mr. Speaker. In strong support, and may I have the written comments of the Representative from Kahului entered into the records as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I want to have the written comments from the Representative from Kahului also. I'm sure he has very fine written comments ready," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and H.B. No. 2129, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GRAFFITI," passed Final Reading by a vote of 51 ayes.

H.B. No. 2708, HD 1, SD 1:

Representative B. Oshiro moved that H.B. No. 2708, HD 1, SD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in strong support and would like to submit written comments as well."

Representative Aquino's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. Mr. Speaker, this bill would require the Department of Transportation to develop and implement a public involvement process when carrying out any transportation project in the State. The purpose of this measure is to allow people an opportunity to provide comments on projects that may affect their communities. This ensures people that public participation and collaboration is welcomed. It empowers our island communities and reminds residents that they have a say in deciding what goes on in government, and how their hard-earned tax dollars are spent. The transparency and partnership opportunities for both constituencies and government would be tremendous. For these reasons, I support House Bill 2708."

The motion was put to vote by the Chair and carried, and H.B. No. 2708, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading by a vote of 51 ayes.

At 5:48 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 840, HD 1, SD 1
H.B. No. 2003, HD 3, SD 2
H.B. No. 2083, HD 1, SD 2

H.B. No. 2721, HD 1, SD 1
H.B. No. 2129, HD 1, SD 1
H.B. No. 2708, HD 1, SD 1

At 5:48 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:48 o'clock p.m.

At this time, the Chair stated:

"Members, on Stand. Com. Rep. No. 1382-10, HR No. 47, HD 1, this measure will be deferred one legislative day, which is tomorrow."

Stand. Com. No. 1382-10 and H.R. No. 47, HD 1:

By unanimous consent, action was deferred one legislative day.

STANDING COMMITTEE REPORTS

Representatives Mizuno and Yamane, for the Committee on Human Services and the Committee on Health presented a report (Stand. Com. Rep. No. 1385-10), recommending that H.R. No. 240, as amended in HD 1, be referred to the Committee on Legislative Management.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.R. No. 240, HD 1, entitled: "HOUSE RESOLUTION ESTABLISHING AN INVESTIGATIVE COMMITTEE TO INVESTIGATE THE PROPOSED REORGANIZATION PLAN AND PURCHASE OF SERVICE CONTRACTS OF THE DEPARTMENT OF HUMAN SERVICES," was referred to the Committee on Legislative Management, with Representative Chong being excused.

FINAL READING

Representative B. Oshiro moved to agree to the amendments made by the Senate to the following House Bill, seconded by Representative Evans and carried: (Representative Chong was excused.)

H.B. No. 2152, HD 1, (SD 1)

The Chair addressed the Clerk who announced that the record of votes for said measure had been received which indicated that a quorum was present at decision making, and that the requisite number of House Conferees appointed had cast affirmative votes to report said measure to the Floor.

H.B. No. 2152, HD 1, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2152, HD 1, on the following showing of Ayes and Noes:

Ayes, 3 (Yamane, Nishimoto and Finnegan). Noes, none. Excused, none.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 2152, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES," passed Final Reading by a vote of 51 ayes.

At 5:51 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2152, HD 1, SD 1

At 5:51 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:51 o'clock p.m., with the Speaker presiding.

END OF CALENDAR

At this time, the Chair stated:

"Members, at this time, if you will recall, on page 13 of your Order of the Day, Conference Committee Report No. 52-10, Senate Bill 2405, Senate Draft 2, House Draft 1, Conference Draft 1, was deferred until the end of calendar, today. We will defer it one legislative day, until tomorrow.

Conf. Com. Rep. No. 52-10 and S.B. No. 2405, SD 2, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

At 5:52 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:53 o'clock p.m.

DISPOSITION OF MATTERS PLACED ON THE CLERK'S DESK

Representative B. Oshiro moved to agree to the amendments made by the Senate and give notice of intent to adopt the following House Concurrent Resolutions, seconded by Representative Evans:

H.C.R. No. 21, (SD 1)
H.C.R. No. 22, (SD 1)
H.C.R. No. 23, (SD 1)
H.C.R. No. 24, (SD 1)
H.C.R. No. 25, (SD 1)
H.C.R. No. 26, (SD 1)
H.C.R. No. 27, (SD 1)
H.C.R. No. 28, (SD 1)
H.C.R. No. 29, (SD 1)
H.C.R. No. 30, (SD 1)
H.C.R. No. 31, (SD 1)
H.C.R. No. 32, (SD 1)
H.C.R. No. 33, (SD 1)
H.C.R. No. 34, (SD 1)
H.C.R. No. 36, (SD 1)
H.C.R. No. 45, (SD 1)
H.C.R. No. 51, (SD 1)
H.C.R. No. 62, (SD 1)
H.C.R. No. 68, (SD 1)
H.C.R. No. 212, (SD 1)

At this time, the Chair stated:

"The notice is just to move to agree today. Tomorrow or Thursday we'll be addressing all of these resolutions. We are moving to agree to the amendments made by the Senate, and giving notice of our intention to agree on Wednesday or Thursday."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments made by the Senate and gave notice of intent to adopt the noted House Concurrent Resolutions.

ADJOURNMENT

At 5:57 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 11:30 o'clock a.m. tomorrow, Wednesday, April 28, 2010.

HOUSE COMMUNICATIONS

House Communication dated April 27, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has made the following changes to the conferees on the following measure:

H.B. No. 921, Discharged Representatives Ito, Carroll, Har, Co-
HD 1, SD 2 Chairs, Thielen

House Communication dated April 27, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has agreed to the amendments made by the Senate and gives notice of intent to adopt the following House Concurrent Resolutions:

H.C.R. No. 21, SD 1
H.C.R. No. 22, SD 1
H.C.R. No. 23, SD 1
H.C.R. No. 24, SD 1
H.C.R. No. 25, SD 1
H.C.R. No. 26, SD 1
H.C.R. No. 27, SD 1
H.C.R. No. 28, SD 1
H.C.R. No. 29, SD 1
H.C.R. No. 30, SD 1
H.C.R. No. 31, SD 1
H.C.R. No. 32, SD 1
H.C.R. No. 33, SD 1
H.C.R. No. 34, SD 1
H.C.R. No. 36, SD 1
H.C.R. No. 45, SD 1
H.C.R. No. 51, SD 1
H.C.R. No. 62, SD 1
H.C.R. No. 68, SD 1
H.C.R. No. 212, SD 1

House Communication dated April 27, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day agreed to the amendments made by the Senate and passed the following House Bills on Final Reading:

H.B. No. 840, HD 1, SD 1
H.B. No. 2003, HD 3, SD 2
H.B. No. 2083, HD 1, SD 2
H.B. No. 2129, HD 1, SD 1
H.B. No. 2708, HD 1, SD 1
H.B. No. 2721, HD 1, SD 1

House Communication dated April 27, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day agreed to the amendments made by the Senate and passed the following House Bill on Final Reading:

H.B. No. 2152, HD 1, SD 1

House Communication dated April 27, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day passed the following bills on Final Reading:

H.B. No. 347, HD 2, SD 2, CD 1
H.B. No. 415, HD 2, SD 2, CD 1
H.B. No. 865, HD 1, SD 1, CD 1

H.B. No. 869, HD 1, SD 1, CD 1
 H.B. No. 979, HD 1, SD 1, CD 1
 H.B. No. 1190, HD 1, SD 2, CD 1
 H.B. No. 1212, HD 1, SD 1, CD 1
 H.B. No. 1665, HD 1, SD 2, CD 1
 H.B. No. 1684, HD 2, SD 2, CD 1
 H.B. No. 1808, HD 3, SD 1, CD 1
 H.B. No. 1818, HD 2, SD 2, CD 1
 H.B. No. 1854, SD 2, CD 1
 H.B. No. 1863, HD 1, SD 1, CD 1
 H.B. No. 1978, HD 2, SD 2, CD 1
 H.B. No. 1987, HD 2, SD 2, CD 1
 H.B. No. 1992, HD 1, SD 1, CD 1
 H.B. No. 2000, HD 2, SD 2, CD 1
 H.B. No. 2020, HD 2, SD 2, CD 1
 H.B. No. 2061, HD 1, SD 2, CD 1
 H.B. No. 2077, HD 1, SD 1, CD 1
 H.B. No. 2084, HD 1, SD 1, CD 1
 H.B. No. 2133, HD 1, SD 1, CD 1
 H.B. No. 2157, HD 1, SD 1, CD 1
 H.B. No. 2200, HD 1, SD 2, CD 1
 H.B. No. 2239, SD 2, CD 1
 H.B. No. 2266, HD 1, SD 1, CD 1
 H.B. No. 2283, HD 2, SD 1, CD 1
 H.B. No. 2288, HD 1, SD 2, CD 1
 H.B. No. 2289, HD 2, SD 1, CD 1
 H.B. No. 2318, HD 2, SD 1, CD 1
 H.B. No. 2349, HD 1, SD 2, CD 1
 H.B. No. 2376, HD 3, SD 2, CD 1
 H.B. No. 2397, HD 1, SD 1, CD 1
 H.B. No. 2441, HD 2, SD 2, CD 1
 H.B. No. 2450, HD 1, SD 2, CD 1
 H.B. No. 2486, HD 2, SD 2, CD 1
 H.B. No. 2497, SD 1, CD 1
 H.B. No. 2503, HD 1, SD 2, CD 1
 H.B. No. 2505, HD 1, SD 1, CD 1
 H.B. No. 2533, HD 1, SD 2, CD 1
 H.B. No. 2542, HD 1, SD 2, CD 1
 H.B. No. 2575, HD 2, SD 2, CD 1
 H.B. No. 2583, SD 2, CD 1
 H.B. No. 2594, HD 2, SD 1, CD 1
 H.B. No. 2595, HD 1, SD 2, CD 1
 H.B. No. 2604, HD 2, SD 2, CD 1
 H.B. No. 2631, HD 2, SD 2, CD 1
 H.B. No. 2644, HD 2, SD 2, CD 1
 H.B. No. 2661, HD 2, SD 2, CD 1
 H.B. No. 2676, HD 1, SD 1, CD 1
 H.B. No. 2688, HD 1, SD 2, CD 1
 H.B. No. 2692, HD 1, SD 1, CD 1
 H.B. No. 2698, HD 2, SD 2, CD 1
 H.B. No. 2725, HD 1, SD 1, CD 1
 H.B. No. 2775, HD 2, SD 2, CD 1
 H.B. No. 2831, HD 2, SD 2, CD 1
 H.B. No. 2832, HD 1, SD 2, CD 1
 H.B. No. 2845, HD 1, SD 1, CD 1
 H.B. No. 2919, HD 1, SD 2, CD 1
 S.B. No. 466, SD 2, HD 1, CD 1
 S.B. No. 506, SD 1, HD 3, CD 1
 S.B. No. 532, SD 1, HD 1, CD 1
 S.B. No. 633, SD 1, HD 2, CD 1
 S.B. No. 910, SD 1, HD 2, CD 1
 S.B. No. 930, HD 2, CD 1
 S.B. No. 950, SD 2, HD 3, CD 1
 S.B. No. 1059, SD 2, HD 3, CD 1
 S.B. No. 1062, SD 1, HD 1, CD 1
 S.B. No. 1105, SD 2, HD 1, CD 1
 S.B. No. 1230, SD 2, HD 1, CD 1
 S.B. No. 2019, SD 1, HD 2, CD 1
 S.B. No. 2020, HD 2, CD 1
 S.B. No. 2045, SD 1, HD 1, CD 1
 S.B. No. 2054, SD 2, HD 1, CD 1
 S.B. No. 2068, SD 2, HD 1, CD 1
 S.B. No. 2105, SD 2, HD 1, CD 1
 S.B. No. 2115, SD 1, HD 2, CD 1
 S.B. No. 2116, SD 2, HD 2, CD 1
 S.B. No. 2150, HD 1, CD 1
 S.B. No. 2154, SD 1, HD 1, CD 1
 S.B. No. 2165, SD 1, HD 2, CD 1
 S.B. No. 2169, SD 2, HD 2, CD 1
 S.B. No. 2173, SD 1, HD 1, CD 1
 S.B. No. 2220, SD 1, HD 2, CD 1
 S.B. No. 2231, SD 1, HD 2, CD 1
 S.B. No. 2256, SD 1, HD 1, CD 1
 S.B. No. 2257, SD 2, HD 1, CD 1
 S.B. No. 2324, SD 2, HD 2, CD 1
 S.B. No. 2346, SD 1, HD 1, CD 1
 S.B. No. 2371, SD 2, HD 1, CD 1
 S.B. No. 2385, SD 1, HD 1, CD 1
 S.B. No. 2386, HD 1, CD 1
 S.B. No. 2395, SD 2, HD 1, CD 1
 S.B. No. 2399, SD 1, HD 1, CD 1
 S.B. No. 2400, SD 1, HD 1, CD 1
 S.B. No. 2434, SD 1, HD 1, CD 1
 S.B. No. 2449, HD 1, CD 1
 S.B. No. 2454, SD 2, HD 1, CD 1
 S.B. No. 2461, SD 2, HD 2, CD 1
 S.B. No. 2472, SD 2, HD 1, CD 1
 S.B. No. 2473, SD 1, HD 2, CD 1
 S.B. No. 2491, SD 2, HD 1, CD 1
 S.B. No. 2534, SD 2, HD 1, CD 1
 S.B. No. 2545, SD 2, HD 2, CD 1
 S.B. No. 2548, SD 2, HD 1, CD 1
 S.B. No. 2563, SD 1, HD 2, CD 1
 S.B. No. 2565, SD 1, HD 1, CD 1
 S.B. No. 2566, HD 2, CD 1
 S.B. No. 2599, SD 2, HD 2, CD 1
 S.B. No. 2600, SD 2, HD 2, CD 1
 S.B. No. 2601, SD 1, HD 2, CD 1
 S.B. No. 2603, SD 2, HD 2, CD 1
 S.B. No. 2610, HD 1, CD 1
 S.B. No. 2643, SD 1, HD 1, CD 1
 S.B. No. 2661, SD 2, HD 2, CD 1
 S.B. No. 2691, SD 1, HD 1, CD 1
 S.B. No. 2697, SD 1, HD 1, CD 1
 S.B. No. 2702, SD 2, HD 1, CD 1
 S.B. No. 2716, SD 2, HD 2, CD 1
 S.B. No. 2729, SD 2, HD 1, CD 1
 S.B. No. 2745, SD 2, HD 1, CD 1
 S.B. No. 2806, SD 2, HD 1, CD 1
 S.B. No. 2807, SD 2, HD 2, CD 1
 S.B. No. 2809, SD 2, HD 1, CD 1
 S.B. No. 2811, SD 2, HD 2, CD 1
 S.B. No. 2817, SD 1, HD 1, CD 1
 S.B. No. 2825, SD 1, HD 1, CD 1
 S.B. No. 2828, SD 1, HD 3, CD 1
 S.B. No. 2831, SD 1, HD 1, CD 1
 S.B. No. 2842, SD 2, HD 1, CD 1
 S.B. No. 2849, SD 2, HD 1, CD 1
 S.B. No. 2859, SD 2, HD 1, CD 1
 S.B. No. 2883, SD 1, HD 2, CD 1
 S.B. No. 2885, SD 2, HD 1, CD 1
 S.B. No. 2897, SD 2, HD 3, CD 1
 S.B. No. 2919, SD 1, HD 1, CD 1
 S.B. No. 2937, SD 1, HD 1, CD 1
 S.B. No. 2951, SD 2, HD 2, CD 1