

FIFTY-NINTH DAY

Wednesday, April 28, 2010

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, convened at 11:41 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Sharon E. Har, 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-Eighth Day was deferred.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 276 through 280) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 276, informing the House that on April 25, 2010, the following bill was signed into law:

H.B. No. 1985, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION." (ACT 059)

Gov. Msg. No. 277, informing the House that on April 25, 2010, the following bill was signed into law:

S.B. No. 898, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE." (ACT 060)

Gov. Msg. No. 278, informing the House that on April 25, 2010, the following bill was signed into law:

H.B. No. 2058, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROPERTY." (ACT 061)

Gov. Msg. No. 279, informing the House that on April 25, 2010, the following bill was signed into law:

S.B. No. 2775, SD 1, HD 2, entitle: "A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS NAMES AS DISTINGUISHED FROM TRADE NAMES AND SPECIFYING REGISTRATION PROCEDURES FOR PUBLICITY RIGHTS NAMES BY AMENDING CHAPTER 482P." (ACT 062)

Gov. Msg. No. 280, dated April 25, 2010, informing the House that on April 28, 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. 2121

On April 28, 2010, I intend to allow Senate Bill No. 2121, entitled "A Bill for an Act Relating to The Early Learning 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 allow the Early Learning Council to conduct meetings by teleconference and sets quorum requirements, public notice requirements, and public participation requirements for teleconference meetings.

This legislative session I introduced Senate Bill No. 2710 and House Bill No. 2557 which would have allowed all boards and commissions to use various forms of audio or audio and visual conference technology, such as teleconference, videoconference, and voice over internet protocol, to facilitate meetings between board members and the public. I believe that expanding the use of available technology by all boards and commissions

will increase efficiency in their deliberations and decision making, enhance public access to these deliberations, and reduce administrative costs for travel and meeting expenses.

However, I am concerned that this measure's scope and applicability is too narrow because it only allows one specific entity to use teleconferencing to conduct meetings. The measure fails to explain why this Council's needs are different from other Boards, Commissions and Councils in the State. The legislation fails to provide a rationale as to why it should be held under a different standard than what is applicable to all other boards and commissions that must adhere to the Sunshine Law.

I urge the Legislature to amend this Act in the next Legislative session to allow all boards and commissions to meet by teleconference, video conference, and voice over internet protocol, or equivalent electronic method.

For the foregoing reasons, I intend to allow Senate Bill No. 2121 to become law as Act 63, effective April 28, 2010, without my signature.

Sincerely,
/s/ Linda Lingle
LINDA LINGLE"

The following messages from the Governor (Gov. Msg. Nos. 281 through 286) were announced by the Clerk and received for possible future consideration:

Gov. Msg. No. 281, transmitting her statement of objections to H.B. No. 2085, HD 1, SD 2, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2085

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, House Bill No. 2085, entitled "A Bill for an Act Relating to Health."

The purpose of this bill is to prohibit a purchasing agency from soliciting proposals for any QUEST contract under chapter 103F, Hawaii Revised Statutes, if the anticipated contract sum exceeds \$100,000,000 and the commencement date of the contract is after the expiration of the term of office of the head of the purchasing agency. The stated purpose of the statutory amendment is to "ensure continuity of care for Hawaii's neediest population and to make certain that Medicaid contracts reflect expectations outlined in national health care reform by establishing restrictions on the issuance of requests for proposals for QUEST contracts."

This bill is objectionable because it does not achieve the stated goal of ensuring continuity of care for Hawaii's Medicaid population and instead will disrupt care for Medicaid clients.

Requests for proposals (RFPs) for the Medicaid managed care programs are extensive, detailed, and complex. QUEST health plans need sufficient time to prepare to deliver a full array of health care services to nearly 200,000 individuals who are currently served in the QUEST program. The Department of Human Services must ensure that there are uninterrupted services to these vulnerable clients.

This bill ties the solicitation of bids to the expiration of the term of the head of the purchasing agency. This language would seem to require that all QUEST contracts be scheduled so that they never expire within the last one and one-half to two years of any appointed director's term. This is the

length of time needed to allow for the complete procurement of a complex contract, including any delays caused by appeals and challenges to the contract award.

Thus, if a contract cannot be solicited before the end of a director's term, there is a high probability that any existing contract would end before a new one is in place during the next director's term. Such a scenario will require extension of the existing contract beyond its original terms, which circumvents the protections in state procurement laws. Extensions would delay the State's ability to structure a new contract in a way that strengthens its oversight of the health plans, drawing on the experience of the previous contract. Extensions would also delay efforts to improve the contract provisions to ensure better quality health care for Medicaid clients, and maximum efficiency, transparency, and value to Hawaii taxpayers.

For the foregoing reasons, I am returning House Bill No. 2085 without my approval.

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

Gov. Msg. No. 282, transmitting her statement of objections to H.B. No. 2086, HD 2, SD 2, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2086

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, House Bill No. 2086, entitled "A Bill for an Act Relating to Health Care Data."

The purpose of this bill is to allow clinical laboratory test results to be provided to authorized persons or a covered entity for a purpose permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This bill appears to be intended to expedite patient care by broadening the definition of who may have direct access to laboratory data. However, the legislation lacks safeguards that will ensure the protection of patients' privacy rights.

Section 11-110.0-16, Hawaii Administrative Rules, states, "The result of a test shall be reported only to the authorized person who ordered the test and the designee(s) of the person who ordered the test." The administrative rules list the specific individuals and entities that may access laboratory data in such a way that ensures licensed health care providers use information for direct diagnosis, treatment, and health care evaluation purposes.

This measure is a significant departure from what is currently permissible, because it provides for a much broader array of people and entities, that do not have a direct role in a patient's health care, to access laboratory data. I am also concerned that once an entity or its associated businesses obtain laboratory data, they can forward that information to any other HIPAA entity or associate without limit. This could lead to the wider dissemination of sensitive patient information.

I believe that this issue requires and deserves further review. Additional safeguards should be developed before this bill is enacted. I strongly urge the Legislature and Department of Health to discuss with stakeholders the potential impacts of expanding access to clinical laboratory data. They should also evaluate national discussions currently underway and allow pending federal rules changes to be promulgated before proposing State legislation that may not meet new federal guidelines.

For the foregoing reasons, I am returning House Bill No. 2086 without my approval.

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

Gov. Msg. No. 283, transmitting her statement of objections to H.B. No. 2421, HD 2, SD 2, CD 1, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2421

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. 2421, entitled "A Bill for an Act Relating to Government."

The purported purpose of Senate Bill No. 2421 is to provide a source of funding to support government programs, personnel, task forces, and grants-in-aid intended to promote energy and food security in the State. The funding will be generated by instituting a \$1.00 increase in the tax imposed on each barrel or fractional part of a barrel of oil sold by a distributor to any retail dealer or end user in the State. However, over half of the money raised by the tax would not be used for the stated purpose.

This bill is objectionable because it raises taxes on Hawaii residents and businesses by an estimated \$22 million per year at a time when the community cannot afford these taxes, and deceptively implies these funds will be used to address the state's dependence on imported fuel and food.

This tax will impact virtually everything we do or use in Hawaii including electricity, gasoline, trucking, shipping, retail goods, food, and even the propane for our backyard barbeques. The impacts will ripple through our entire economic system. I am particularly concerned that the tax increase occurs at a precarious moment when the State economy is beginning to stabilize and progress out of the slump created by the global recession.

It is worth noting that the Legislature was willing to exempt from this barrel tax aviation fuel used by commercial airlines, thereby shifting the burden of the tax to consumers. It should be recognized that higher energy prices discriminate against poor families more than any other group in our society. Energy costs comprise a higher percentage of family expenses for those at the lower income levels. This taxing policy runs counter to a progressive tax structure.

As I noted last year when I vetoed this measure's predecessor, energy and food security have been top priorities of my Administration. In 2006, I signed groundbreaking legislation known as Energy for Tomorrow that laid the foundation to wean Hawaii off imported oil. In 2008, my Administration signed a historic, one-of-a-kind agreement with the U. S. Department of Energy intended to decrease energy demand and accelerate the use of renewable energy resources in Hawaii. In 2009, we enacted legislation drafted by members of the Hawaii Clean Energy Initiative that will help Hawaii meet our goal of 70 percent clean energy by 2030. I am proud to share these accomplishments with members of the Legislature, federal officials, and the community who are committed to making Hawaii a cleaner, greener, and more secure place to live.

I believe we can continue to make significant progress in this arena without this tax and the bureaucracies it will fund. Further, I am concerned that some of the money in this bill would be used to fund entities that have no direct relationship to the stated purposes of the legislation.

In sum, we must be willing to make tough choices and work together to prioritize the public programs that have the potential to genuinely address the State's dependence on imported oil and imported fuel without burdening our families, our businesses, and our economic recovery.

For the foregoing reasons, I am returning House Bill No. 2421 without my approval.

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

Gov. Msg. No. 284, transmitting her statement of objections to H.B. No. 2866, HD 1, SD 1, CD 1, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2866

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, House Bill No. 2866, entitled "A Bill for an Act Relating to Taxation."

The purpose of this bill is to reestablish the Hawaii estate tax on property, holdings, and assets of persons who pass away after April 30, 2010. This measure also taxes non-citizen and non-resident assets in Hawaii.

The bill is objectionable because it would effectively increase taxes on those most likely to invest in businesses and properties in Hawaii. It would also impose a tax on families with valuable land holdings who may not be wealthy, but whose estate meets the statutory thresholds.

Hawaii has not had an estate tax since 2005, when the federal credit for state death taxes was eliminated by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Moreover, there is also no federal estate tax for tax year 2010 as a result of the EGTRRA. This measure targets individuals who are most capable of stimulating Hawaii's economy, and provides a disincentive for residents and non-residents looking to accumulate capital in the State or invest in the State.

Moreover, it is unfair to apply this estate tax to persons who die after April 30, 2010 with little notice or time to inform the public. This measure does not provide enough time for individuals to adequately plan their estate or modify their current estate plan. It would be unfortunate if a person who passes away on May 1, 2010, who may or may not know of the estate tax's existence, cannot distribute his estate as planned to his heirs and charities.

For the foregoing reasons, I am returning House Bill No. 2866 without my approval.

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

Gov. Msg. No. 285, transmitting her statement of objections to S.B. No. 2159, HD 1, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2159

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. 2159, entitled "A Bill for an Act Relating to Traffic Abstract Fee."

The purpose of Senate Bill No. 2159 is to increase general fund revenues by raising the traffic abstract fee from \$7 to \$20. Of the \$20.00 to be charged, \$18.00 is to be deposited into the general fund and \$2.00 is to be deposited into the judiciary computer system special fund.

This bill is objectionable because it is effectively a tax increase on Hawaii drivers and businesses. This bill imposes a nearly two hundred percent increase in the amount of the fee currently charged. Based on the number of abstracts requested each year, this bill would cost Hawaii drivers an estimated \$6.5 million more annually.

This increased fee of \$20.00 would be significantly more than the traffic abstract fee of most other states. This substantial increase will undoubtedly impact businesses operating in Hawaii that regularly need to review traffic abstracts, particularly businesses that operate fleets of vehicles. Further the fee will impact any individual who operates a vehicle and must obtain an abstract for insurance purposes.

This measure, places an additional burden on Hawaii's residents and businesses at a time when existing taxes are difficult enough to bear. Families are prioritizing expenditures and making difficult decisions in order to live within their means. We in the State, have an obligation to do the same.

For the foregoing reasons, I am returning Senate Bill No. 2159 without my approval.

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

Gov. Msg. No. 286, transmitting her statement of objections to S.B. No. 2650, SD 2, HD 2, CD 1, as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2650

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. 2650, entitled "A Bill for an Act Relating to the Department of Human Services."

The purpose of this bill is to allow the Governor, through the Department of Human Services (DHS), to establish an eligibility processing operations division (EPOD) pilot project on Oahu. This bill also prohibits the DHS from implementing any transfer of eligibility functions via a reorganization proposed before and during the effective date of the measure, other than the pilot project.

This bill is objectionable because it denies equal access for Hawaii residents living on the neighbor islands to utilize and receive public benefits, such as welfare assistance, Medicaid, and the Supplemental Nutrition Assistance Program services. The reorganization, proposed and

approved before the Legislature passed this measure, is designed to increase the convenience with which clients across the State can apply for services and renew their eligibility to retain services through the establishment of a call center and online applications. Residents could also receive in-person assistance at remaining DHS offices, community-based social service agencies, hospitals, and health clinics statewide.

This measure would provide easier access to the application and renewal process for residents on Oahu only, which is not fair to those living on the neighbor islands, and discriminates against them based solely on the location of their residence.

This bill is also objectionable because it would limit DHS's ability to reduce the backlog of applications and renewals for public assistance, which has increased statewide since 2008 because of the global economic recession. If EPOD cannot be fully implemented statewide, only those applications originating on Oahu will benefit from faster, more responsive, processing. Neighbor island applications are currently delayed for as long as four months, and the processing periods are not within the required federal timelines. The backlog will continue to grow. This does not serve our most needy residents well.

Furthermore, the original state-wide proposal would have improved the quality of service to public assistance recipients statewide while saving the taxpayers of the State an estimated \$8 million annually. There is nothing wrong with improving service and also saving money. The original program should proceed.

For the foregoing reasons, I am returning Senate Bill No. 2650 without my approval.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 643 through 649) were received and announced by the Clerk:

Sen. Com. No. 643, dated April 26, 2010, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the Senate to the following House Concurrent Resolution:

H.C.R. No. 284, Fukunaga, Chair; Ige, Slom
SD 1

Sen. Com. No. 644, dated April 27, 2010, informing the House that the following bill has this day passed Final Reading:

H.B. No. 2200, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET."

Sen. Com. No. 645, dated April 27, informing the House that the following bills have this day passed 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. 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. 1907, HD 1, SD 1, CD 1
H.B. No. 1948, 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. 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. 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. 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. 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. 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

Sen. Com. No. 646, dated April 27, 2010, informing the House that the Senate has on April 12, 2010, reconsidered its action taken on April 7, 2010, in disagreeing to the amendments proposed by the House to the following Senate Bills and have moved to agree to the amendments, and that said bills have this day passed Final Reading:

S.B. No. 2001, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION."

S.B. No. 2401, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES."

Sen. Com. No. 647, dated April 27, 2010, informing the House that the Senate has on April 22, 2010, reconsidered its action taken on April 7, 2010, in disagreeing to the amendments proposed by the House to the following Senate Bill and has moved to agree to the amendments, and that said bill has this day passed Final Reading:

S.B. No. 2547, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS."

Sen. Com. No. 648, dated April 27, 2010, informing the House that the Senate has on April 26, 2010, reconsidered its action taken on April 8, 2010, in disagreeing to the amendments proposed by the House to the

following Senate Bill and has moved to agree to the amendments, and that said bill has this day passed Final Reading:

S.B. No. 2172, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST KAIMUKI CHRISTIAN SCHOOL."

Sen. Com. No. 649, transmitting H.B. No. 2094, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HAWAII PACIFIC HEALTH," which passed Third Reading in the Senate on April 27, 2010.

INTRODUCTIONS

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

Representative Yamane introduced the many members of AARP, Lanakila Pacific, and Kokua Kalihi Valley.

Representative Ching introduced her legislative staff: Office Manager, Ms. Leanne Cardwell; and Ms. Naomi Kusachi and Ms. Colette Devou.

Representative Finnegan introduced friends from the Big Island, Mr. Scott Henderson, Mr. Daryl Smith, Mr. Fred Blas and Ms. Betty Blas. They were accompanied by Ms. Beth Fukumoto of Representative Ward's office.

Representative Finnegan also introduced Department of Land and Natural Resources Director, Ms. Laura Thielen.

Representative Ward introduced constituents, Mr. Paul Tomonari, and farmer, Mr. Tom Yamabe.

Representative Karamatsu introduced Ms. Merlita Compton, Program Coordinator for Kokua Kalihi Valley, and Mr. Brandon Mitsuda with Lanakila Meals on Wheels.

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. 154-10 and H.B. No. 1015, HD 1, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1015, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, this bill has been a long time coming. I would like to first of all thank the Chair of the Water, Land, and Ocean Resources Committee, and the Vice-Chair for working hard on part of this measure, and also the members of the Conference Committee who saw the value in this measure.

"Mr. Speaker, this measure has two parts that are very valuable to the Department of Hawaiian Homelands because we all know that the \$30 million that the Legislature allocates each year will go away after 2014.

"The first part of this bill is a two-year pilot project which allows the Department of Hawaiian Homelands to start projects without their full capital. We also inserted language there from the Attorney General's

Opinion regarding the liability on the State that there will be no liability and the credit will be used against the Trust

"In part two of this bill, because we are trying to increase the revenues and to increase the Trust with the revenues going into that Trust, this bill offers a 20 year extension, one time only, which we all know that a commercial lease provides for a 65 year commercial lease and with 20 more years gives it a maximum of 85 years.

"What's beautiful about this bill is that we've heard the cry over the years about beneficiary consultation. This bill will allow for that and through rulemaking, Chapter 91, the Commission will adopt rules and evaluate and make final determinations on a request for a lease extension. This was really huge for our Committee because of the outcry from the community, from the beneficiaries, and those who work with the beneficiaries. We also inserted that in the bill.

"This bill also calls for 15% of proceeds off of the extension lease to go to the Native Hawaiian Rehabilitation Fund, which is a fund that was created in law pursuant to Article XII, Section 1 of the State Constitution. This particular Fund will assist with scholarships and other Native Hawaiian programs and we see this as a real value.

"I'd like to say for the record that when we were in Conference, this language was also mentioned, so if anybody tells you it wasn't, they're wrong. It was part of what we agreed upon. Not the full commercial leases, but the extension of the leases.

"Also I would like to say that we put in, because of transparency, reporting requirements. So the Department of Hawaiian Homelands has to submit an annual report to the Legislature and the United States Department of Interior no later than 20 days prior to the convening of each Regular Session beginning with 2011 of all leases of available lands for commercial and multipurpose projects.

"We also required another reporting mechanism for the Native Hawaiian Rehabilitation Fund. We wanted to ensure that the Department of Hawaiian Homelands submit this annual report to the Legislature, again to the United States Department of Interior no later than 20 days prior to the convening of each Regular Session of 2011 on all revenues generated by the commercial leases and expenditures from this Fund including amount expended, the recipient of the moneys expended, and the purpose of the expenditures also on the extended leases.

"Mr. Speaker, as your Chair of the Hawaiian Affairs Committee, you all know that I introduced a gaming bill earlier, which was not the political will of this Legislature. I also said at that time, if not gaming to raise funds for the Department of Homelands, what then?

"We also have been reminded in the news that in 2009 of November there was a lawsuit, Kalima vs. DHHL. They won that lawsuit because, why? The Department of Hawaiian Homelands in Article XII, Section 1 in the Constitution says that the State has a fiduciary responsibility to provide adequate funding, and we have been in breach of that contract. So now the Attorney General is looking at 'what next?'

"If we look at the settlement, the settlement could possibly bankrupt this State. So as your Chair of the Hawaiian Affairs Committee working with other Chairs of this Body, this bill has been crafted to enable and to allow for the Department of Hawaiian Homelands to meet their responsibility to their beneficiaries. Why? Because right now even though they receive the \$30 million in their Trust, they still have and continue, which is a good thing for Native Hawaiians have increased their wait-listed. But they've been only able to put about 500 to 1,000 homes on the lands.

"I have grave concerns about this, why? Because there could be more lawsuits. Because of that waitlist. And it's not about the land because the land is there. We need the infrastructure. We need that Trust Fund to build those revenues so that we don't have to take away ..."

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

Representative Carroll continued, stating:

"Thank you. We don't want to take away from the State Budget, however we do have that fiduciary responsibility.

"I believe that this bill through that pilot project which we can study, will allow the Department to put more homes on the lands, reduce that wait list, but work collaboratively with the beneficiaries in looking at how commercial leases are extended. But more importantly the hope is that they will also work with other organizations that help beneficiaries to help Native Hawaiians to also attain commercial leases so that we can all prosper.

"In closing Mr. Speaker, I'm very happy to say that this bill allows for the Department to work hand in hand with the beneficiaries and that all commercial lease revenues will go into the Department of Hawaiian Homelands Trust and any extended commercial leases, 15% of those proceeds will go to the Native Hawaiian Rehabilitation Fund. I think that's a win-win situation.

"But also the Legislature still has the ability to reevaluate the situation through a resolution in four years, which we put in the Committee Report because we certainly want to continue that transparency. We want to evaluate how this project is working, and look at public policy that will enable the Department of Hawaiian Homelands to meet their mission, but more importantly as a Member of this Body that the State meets their fiduciary responsibility. Thank you, very much."

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

"In strong support, and I just would like to adopt the words of the Chair of the Hawaiian Affairs Committee," and the Chair "so ordered." (By reference only.)

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

"Thank you. Also in strong support and would just like to adopt the impassioned words of the Chair of Hawaiian Affairs as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I have the same request, except for the gaming remarks. I would not follow her there. And may I give a few additional remarks?"

"Mr. Speaker, it's a great day for the 1920 Organic Act when the Hawaiian community was promised they'd have either a home, or a lot, or a home on a lot, and for years and years we've kept postponing that promise. This bill gives leverage to be able to do that faster and more efficiently.

"And you know there are 10 to 20,000 people on that waiting list. I commend the Chair of the Hawaiian Affairs Committee who really stuck to her guns in the Conference Committee of which I was a part of. As well as commending Micah Kane and Kaulana Park for the leadership they're showing, and how they can leverage funds and not just wait and wait and wait which is now 90 years of waiting. We still haven't done it, so this is really the right step, the right policy, at the right time. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support and just brief comments. First of all Mr. Speaker, I would like to thank the Chair of Hawaiian Affairs. She came in, in the 11th hour helping us when we had a title issue. I want to thank you Mr. Speaker, as well as the Senate President for providing a waiver so that we had this vehicle to insert this portion of the bill regarding extended leases. I also want to really thank and congratulate one of our staffers, Melissa Miranda-Johnson who is the Committee Clerk and Office Manager for Chair Ito. She's now worked on this bill for four

years and this was truly a passion of hers and I really want to thank her, as well as the Office Manager for the Chair of Hawaiian Affairs, Jan Salcedo.

"As the Representative from Hawaii Kai noted, this is long overdue. This bill will now allow the DHHL to have a revenue stream coming in particularly after 2015 so that DHHL can continue on with their mission and that is to get people, their beneficiaries, off the waiting list and get them into their homes. It gives them the ability to be self-reliant and self-sustainable. And we want to thank also former Chair Micah Kane, as well as current Chair Kaulana Park, as well as Mr. Bobby Hall who always remained tenacious, as well as Dreana Kalili who also remained tenacious. They spent many hours with us here working tirelessly on this bill. And Mr. Speaker, may I request permission to enter additional written comments into the Journal. Thank you."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support of H.B. 1015, H.D. 1, S.D. 2, C.D. 1. This bill allows the Department of Hawaiian Homelands to extend its commercial leases, as well as up to 85 years total, which will expand its options in generating revenue to fulfill its mission by attracting top commercial leases. The law sets a process for DHHL to consult with the Hawaiian community prior to leasing land for commercial or multipurpose projects, to ensure that the long-term lease extensions go to developments that are of sufficient value and meet the priorities of the community. The bill also specifies that 15% of the revenues from the extended leases will go to the Native Hawaiian Rehabilitation Fund, which delivers directly to the beneficiaries through grants, scholarships and other community programs. Finally, this bill creates a temporary pilot program that allows DHHL to begin construction on housing and other projects without having the full, and final amounts of capital at the outset of the project, which will help DHHL to more expediently fulfill its mission to provide residential lands and housing to native Hawaiians.

"This bill is essential to DHHL's future success in meeting its mission. Currently, DHHL receives \$30 million per year from the State as a settlement, but this money will stop in 2015. This bill gives DHHL the ability to expand a critical revenue stream that will allow the Department to compensate for the impending drop in revenue. DHHL currently earns some revenue from 65-year commercial leases, but those terms have limited DHHL's ability to attract substantial investment in the proposed commercial lease properties, because commercial lessees need the security of a longer lease to obtain financing for construction and to spread out the repayment of its costs. By allowing the lease terms to be extended, the Department will be able to further its mission of effectively managing the Hawaiian Home Lands trust and providing lands for native Hawaiians for residential, agricultural and commercial purposes.

"Ultimately, this bill enables the Department of Hawaiian Home Lands to work more effectively and efficiently, which, in turn, benefits all the lessees and applicants of the Hawaiian Home Lands trust. The increased revenue will help the Department build more homes, giving more DHHL applicants the opportunity for homeownership. The revenues will also benefit current homeowners and other members of the Hawaiian community by funding community centers and other facilities. Finally, by attracting large commercial projects close to homestead communities, the extended leases can help create jobs close to home, resulting in less traffic and a higher quality of life.

"The bottom line is that H.B. 1015, H.D. 1, S.D. 2, C.D. 1 is essential to DHHL's future self-sufficiency as it faces the impending loss of a significant portion of its revenue and looks for ways to continue to meet its core mission. For the foregoing reasons, I strongly support this measure. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. And may I ask that the words of the Chair of the Hawaiian Affairs Committee be inserted as if they were my own, as well as the Vice-Chair of Water, Land to be inserted as if they were my own. And in the spirit of collaboration, the Representative from Hawaii Kai as if they were my own? Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I would like a ruling on a potential conflict. I am a homestead lessee," and the Chair ruled, "no conflict."

Representative Awana continued in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in strong support and ask that the comments made by the Representative from Hana be entered into the Journal as if they were my own. Thank you Mr. Speaker," and the Chair "so ordered." (By reference only.)

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

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

"Mr. Speaker, in strong support. And I would also want to have the remarks of the Chair of Hawaiian Affairs as my own. Thank you for your hard work."

Representative Carroll rose to respond, stating:

"Thank you, Mr. Speaker. *E kala mai*. There's also another person I must also thank and that is the Chair of Finance because of his due diligence, and his patience with us. But also, because of his wisdom we were able to move this forward. So I would like to thank him very much, and the staff that has assisted us on this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1015, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OBLIGATIONS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS TRUST FUND," passed Final Reading by a vote of 51 ayes.

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

H.B. No. 1015, HD 1, SD 2, CD 1

Conf. Com. Rep. No. 155-10 and H.B. No. 2377, HD 3, SD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 2377, HD 3, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker and Members. I wish to speak in opposition to this measure. Mr. Speaker and Members, I believe that this measure is premature. We don't know whether the public will vote for the elimination of the Board of Education and come up with a new plan. So this bill should at least wait until the vote is taken by the public, and not be so presumptive as to assume that it's going to pass. I've always been told that it's more difficult to 'bet on a come,' than it is to 'bet on a don't come.'

"And also Mr. Speaker, if you look at this bill, this bill will not provide the checks and balances that we are seeking. Rather it will provide more power to the centralize office of the Governor who will be having the final say as the bill goes along. This Board will merely be making recommendations. The final call will be with the Governor. So I don't really see any major improvements for the Board of Education with this measure, or with the other measure that we passed. Thank you, very much."

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

"Thank you, Mr. Speaker. This bill is regarding the Board of Education appointment and selection advisory council. I am in opposition. Thank you. The purpose of this bill is to improve the accountability of Hawaii's public education system by requiring the members of the Board of Education to be nominated and, with the advice and consent of the Senate, appointed by the Governor from pools of qualified candidates presented to the Governor by the Board of Education Candidate Nomination Commission.

"And that purpose statement Mr. Speaker, is the exact reason why I am in opposition to this bill. Mr. Speaker, I've spoken time after time on the Floor about this bill and my opposition to this bill, because what it does is in its efforts to say 'improving accountability,' to me it does just the opposite. It doesn't give us the kind of accountability that we need in order to improve our situation for the teachers and the principles at the school level. It doesn't give us the kind of direct responsibility, clear direction, or accountability when we're in situations where we want to say, 'What happened?' What happened to, whether it be test scores. What happened to money? What happened to whatever's going on in the education system, the decision making.

"Currently in the existing system, there is no way to say who is ultimately responsible. Mr. Speaker, the Governor has gotten a lot of bad press having to do with why isn't she solving this Furlough Friday problem. Mr. Speaker, the bottom line, as I've spoken about before, there is a root problem to all of this and that the government structure is part of that.

"As I've mentioned yesterday, the Department of Education almost operates like a separate part of government. A separate branch of government currently, and we need to correct this. I decided that I was going to change my vote on the constitutional amendment that changed it from an elected Board of Education, to an appointed Board of Education because I felt that maybe we can go in this direction and maybe I'll support it and see what our constituencies will say.

"But this description that says already there is a line of groups that come into the decision making process on who will be the Board, instead of directly letting the Governor choose from a big pool of qualified candidates. Not one that has been put through a strainer by all these different other people. We always say that its politics that's going to play in this system. Mr. Speaker, I think that's such a false statement because there's politics in the system that we're in now. That's why we're stuck in Furlough Fridays.

"Mr. Speaker, I think we can do much better than this. And if it means killing this bill this time around and waiting for a constitutional amendment to pass, then that's what we should do. And Mr. Speaker, could you please enter my previous comments from my prior times speaking on this bill, the constitutional amendment, into the Journal, as well as my remarks on Third Reading. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I rise in opposition. Thank you. Yesterday I spoke contrary to Speaker Emeritus' position on the constitutional amendment. Today I join him in opposition to this component of changing our educational system, our planned structure of how we run education in this State.

"I said yesterday that the people are afraid of change. The status quo is the best; to go along, get along. But to change things, it disrupts things. The difficulty with this bill Mr. Speaker, is that it shows that we're denying that we want to change in the constitutional amendment. We say that we want to change, but this one denies that. It puts a 'half a loaf' as my

colleague just said, of politicization into the process. I think the statement was very apt. The reason why furloughs have not ended is because of the politics in the structure of the situation.

"As I've said many times, and I don't usually quote Congressman Abercrombie, but he said it's like a rectangular firing squad. Everybody blames the next, and the other person. Or if you live in a round house, you can never be cornered.

"And Mr. Speaker, this bill is starting to corner again the opposition between the Legislative and the Executive. These appointments by you Mr. Speaker, and this has nothing to do with you personally, or to the President of the Senate who has the filtering to get those people on board. But it puts back the polemic of the Legislature against the Executive. We need to hold the Executive accountable if we're going to give her or him the position to keep education on track.

"Mr. Speaker, the difficulty is in this, this is where the politics is rather shocking because a former member of the Board of Education told me that after the election, there was excitement, and there the enthusiasm, and the honeymoon of being an elected official for the first time. In their orientation with the Board of Education was, 'Yeah, yeah. You're the Board. You're elected. But we run the show.'

"Mr. Speaker, we have got to have accountability in who runs the show and who's responsible. Accountably, again the 'A' word, the accountability is what we need. We can't be 43rd in the nation and be proud of it. We can't have furloughs with only 163 days of the year to be proud of it. We need change, and this bill denies the change because it puts the politics back which we were intended to take out. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. I guess I'm in support of this measure. It's very ironic to me that my colleagues from Maui on one hand, opposes this measure because it somehow gives too much power to Governor. And then my colleagues from across the aisle oppose it because it doesn't give enough authority to the Governor. It's a very interesting paradox here.

"Let me take a couple points. First of all the Department of Education is not a separate branch of government. Anyone knows that, so I don't need to clarify that in any way, shape or form. But secondly, initially the Lingle-Aiona Administration and the Minority supported abolishing the Board of Education and having just the Governor appoint the Superintendent of Education, and that has morphed into I suppose, tepid support for now, for an appointed Board.

"But you know Mr. Speaker, if you're going to go with an appointed or elected Board, let's see what the real test is. The real test if whether or not any type of governance structure leads to better student achievement, because despite the politics that might be imbedded or not within any particular governance system, we are doing this because we believe that it holds the best potential to improving student achievement.

"So let's look at the issue of an appointed Board versus no Board at all. Let's look at NAEP scores and I think all of us know the National Assessment of Education Progress which is known as the nation's report card, if you will. It gives an 'apples to apples' comparison of test scores across the board. The Minority Leader asserts that an appointed Board, in previous speeches on the Floor, is fake reform. Perhaps in her, I suspect rebuttal, she can explain what her research has shown as far as how many states have no state board of education and what they have done in terms of student achievement.

"My research shows that Hawaii has made greater gains in NAEP over the past six years than those states that have no state board of education. To prove a nexus between student achievement and boards I think is a very tricky matter, but nevertheless, 8 of the top 10 states in terms of NAEP have appointed boards.

"Now let me get to the crux of the issue regarding the Selection Council. It's interesting that people believe that this prevents the Governor from

appointing highly qualified candidates. Mr. Speaker, the way we approve our judges is precisely in this method and no one has said we should abolish the Judicial Selection Commission and let the Governor appoint whoever he or she wants to sit on the bench. And in fact, we have heard complaints over the years of judges being soft on crimes, too pro-criminal, anti-victim, whatever the case may be. Heck, why don't we introduce a bill to get rid of the Judicial Selection Commission and have the Governor appoint judges unilaterally.

"But the second and the most important point Mr. Speaker, is that despite my good friend, the Speaker Emeritus, talking about the Governor having too much power. I will trust my colleagues on the other side, on the Senate side because any person who is nominated for a judgeship, for a Board of Regents seat, or this anticipated appointed Board of Education has to be confirmed by the Senate. That will allow public hearings and you know how those things work. To simply assert that the Senate 'rubber stamps' every nominee that comes before them, you know is simply not true.

"So this is not the perfect bill. If I had my druthers it would have been slightly different by the way, but I do believe it represents a compromise with the various parties that came forward and said what they believed would work in the best interest and hold the highest potential for increasing student achievement. No bill is ever perfect Mr. Speaker, but I think this represents a good faith effort. Thank you."

Representative Souki rose to respond, stating:

"Yes, thank you very much. In rebuttal. Again Mr. Speaker and Members, I need to reemphasize that this bill is premature. We don't know what the outcome is going to be of the ballot.

"And number two, again, the current Board that we have, the elected Board of Education has policy-making powers that we have given them through legislation to make policy for the Board of Education. With this appointed Board, they don't have the policy-making power. The policy-making power will belong to the Governor. One man, or one woman will be able to make the call, and that is a dangerous precedent.

"I don't think there is anywhere on the mainland that we have one person making the call. And this is a large system that we have. We have over 167,000 students. 12,000 or 13,000 teachers. Yes it's not a separate branch of government, but maybe it should be because of its size, and its complexity. But this bill, at this point in time, is not necessary Members. Thank you, very much."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. Yes, I would like to still be in opposition, but I would like to respond and rebut. Mr. Speaker, first of all I'd like to clarify that I said it's like a separate branch of government. I did my government studies when I was in the fourth grade. I realize the Department of Education is not a separate branch of government. However it does operate like one sometimes, and I did say, 'like.'

"Mr. Speaker, what's happening in this bill is, it basically sandwiches the Governor, whoever that Governor will be. Democrat, Republican, whatever. Black, white, red. It will sandwich the Governor between two bodies. The Senate with advice and consent, and before that appointment by a whole bunch of different people. This group that will strain, like I said, and choose the people who would choose the candidates that will be moved forward to the Governor. Mr. Speaker, that really lessens the pool.

"Mr. Speaker, I will also say that yes, there is a situation where there's the Washington D.C. Mayor who appointed Chancellor Rhee, and Chancellor Rhee went in, proved herself through higher test scores, did some radical changes, but because the Mayor had her back, and they had an agreement that if she was going to do it her way, that she needed the Mayor's complete confidence to move forward. And now they're starting to see the fruits when the rest of the country is actually not doing as well, she's showing student achievement. Mr. Speaker, and she got a lot of bite back from the community and everybody. But what you need is that clear commitment that you're going to do this despite what the union says,

despite what the community says, that you need to have that clear commitment and focus on the student. That is something that we did not have when we were talking about whether or not we're going to have Furlough Fridays, or pay cuts, or whatever it was. Whatever they were talking about.

"Mr. Speaker, this is really important because we went through the appointed Board. And from my understanding, I wasn't here. I think I may have been a year old when we had an appointed Board. But we had an appointed Board. My understanding is that it changed to an elected Board to help students and student achievement. And then we went through this whole thing called SCBMs for community control. That failed because communities felt they didn't have the ability to speak into their schools and make decisions. Then we did Act 51 six years ago. That is failing. All the quote-unquote, 'promises,' that we promised to give communities control and have 70% expended by the schools, principal contracts, all of those things - not working, Mr. Speaker."

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

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. I will just finish up in saying that year after year. And I had said in an earlier speech that my son was five years old when we started this. He's half way through of his young education. By the time we get something really concrete where we can move forward for student achievement, he will graduate from school. So yes, I am going to fight for this, Mr. Speaker, because I'm not even thinking that it's going to work for this year, next year, or the year after that. But hopefully by the next generation, we will have a system that has accountability. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. I'd like to first adopt the words of the Chairman of Education as if they were my own. Thank you. I'd also like to congratulate him, and thank him for his work on not only this bill, but the other bill relating to the constitutional amendment. As you know, I had some concerns when the first bill came to the House Floor on first Crossover. I said then, and I'll say it again, that as long as those issues are addressed, I think we can be proud of the product. And I can tell you today that those issues were addressed.

"In fact the most significant one really relates to our Neighbor Island colleagues. As you recall, the Board was really an at-large Board of Education. It didn't have a requirement for representation as it relates to residency on each island. Today I can say that looking forward, this new Board will have representation throughout the State and I think that's very important, number one.

"Number two, I think we should support this bill because this bill actually provides the Governor with the mechanism, utilizing the Council to vet prospective Board members. You know, it takes a lot of hard work to come up with lists of appointees to recommend to the State Senate, and I think in this particular process you're going to have able-bodied people appointed by the Governor, the Senate President, the Speaker, and actually four members appointed by the Hawaii P20 Council of which two of those members shall be parents, and one member from the business or nonprofit community, and one of those final four members to be an educator. I think that's quite significant, I think that provides for a very thorough process, a very thorough selection process. One that will provide the Governor, whoever he or she is at the time, enough of a listing of well-qualified candidates to become Board members.

"A few years ago we instituted this change at the Board of Regents at the University of Hawaii as you know. We did have some concerns. We did have some issues. And in fact the issues and concerns were not just with this Governor. It was with the last Governor too. And I think we can all agree that the process of selecting the Board of Regents at the University of Hawaii is a better process now. Now that we have agreed to create the Candidate Advisory Council from which the Governor can choose and

select and recommend to the Senate, members of the Board of Education. So I think this process is a good one, and we should embrace it.

"The final thing I'd like to say is this. The last time the constitutional amendment hit the ballot box and allowed the voters of this State to take a position on this particular issue was 1994. It's been 16 years, Mr. Speaker. That's a long time, and I think it's about time that we provide the voters with this opportunity to decide this issue once again. And as you know, things are much different now. We've got tremendous support from a wide variety of constituencies including the business community and I would say even the education community. So let the voters decide on this particular issue.

"Finally Mr. Speaker, and the reason why I think this bill is very important, if you look at the constitutional amendment it says that we shall have an appointed Board of Education as provided by law. I do believe that it's incumbent upon us and it is fair to provide the voters of this State with our intentions prior to them going into the voting booth. By passing this bill it makes it very clear to the voters of this State our intentions once and for all, hopefully if this Constitutional amendment passes. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I wish to request that the words of the Chair of Education, as well as the Representative from Pearl City be entered as my own. And if I might just add to what they have shared with us. This is an opportunity for fresh thinking and to approach education from a different perspective.

"When I first came back from college and started teaching in the Department of Education, and then continue my career as a middle school principal and student activities coordinator, what became really clear to me is that what happens in the classroom really is impacted by the adults that are making decisions regarding what's supposed to happen in the classroom.

"And when there's reference to politics being played out, politics to me as I've been here in the last few years, really refers to maintaining the status quo. And if what we want to do is move beyond the gridlock of the status quo right now because we've, everyone, says that the schools are not working and pieces of the school need to be transformed and reformed, then we must go beyond what we already know. Putting children in front of all of our decision making and making them the focus is really what we need to begin doing, and as long as we have been discussing this issue of Furlough Fridays and funding, it is the platform, it is the politics of adults discussing this that seemed to keep us in this gridlock.

"One of the thoughts I wish our colleagues to remember is that the origins of public schools in Hawaii is not the same as it is on the continent. On the continent, the civic mission of public schools was to prepare young people to participate in representative democracy as informed citizens, as gainfully employed, as community activists if you will. The word activism has a really bad connotation here, but if we look at the root word of active, that's really what this bill is calling for. It is calling for the Board of Education to be active in policy making and the underlying bill, this particular bill for a process to enable adults to be part of the process without the concern of platforms, being elected, having constituencies pressing on them.

"The public schools in Hawaii were created for the 'have-nots' and that is a paradigm that needs to change. As long as we maintain the same framework of governance, the same framework of doing things the way we've always done them, no matter how much we change the student weighted formula, no matter how much we change what buildings are painted, and what the classroom size is, we will not change the paradigm and the framework with which our children go to our public schools.

"One of the things that I would hope is that our colleagues take a look at this new process of determining who would be vetted, or who would be nominated for the Board of Education and look at qualifications that are necessary for a policy making body that will be governing the operations of public entity that also has a lot of private and economic influences. So I

would encourage our colleagues to really not be so afraid of change. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, there was a specious argument given that I think needs to be rebutted, and that was by the Chair of Education who said that the Judicial Selection Commission is doing a great job and this is simply the same as that. Mr. Speaker, as far as I know, the Governor is not concerned about the results of what happens in the courtroom, nor does she have any area of concern with the processes other than what is designated by law.

"In this context, these people will be held accountable by the government, by the Governor. The Governor has no accountability for what the judges do, so to say that this is the same as having a Judicial Selection Committee is specious. It's not relevant, and should be discarded. Thank you."

Representative Takumi rose to respond, stating:

"Thank you very much, Mr. Speaker. In rebuttal. Speciousness is in the eye of the beholder, Mr. Speaker. I believe the selection of Board of Ed members is just as, if not more important than the selection of judges. So by using the same process, I think we are on the right path.

"To respond to the Speaker Emeritus, obviously there are examples. The Minority Leader mentioned one about Washington D.C. The New York City public schools have 1.2 million students, and 1,000 schools. The Chancellor of the public school system is a member of the Mayor's cabinet, so there are examples.

"Secondly to respond to point about the timeliness, and whether or not, why do this if the voters vote it down. I think it would be the height of irresponsibility to not have an underlying measure, and that if the voters decide to go for an appointed board, then we'll have to come back in January and go through the process of passing the underlying implementing legislation. So potentially, we could have a 'lame duck' board. The already elected board could serve for five or six months while we talk about how we're going to deal with the appointed board. This underlying bill will allow this appointed board to get moving relatively quickly if again, the voters decide to have this.

"To respond to the Minority Leader, she's mentioned over a number of times about Act 51 and how it's fake and all the rest of it. Mr. Speaker, I know that's not germane to this bill, but let me just say this.

"Let's look at a couple aspects of Act 51 that passed in 2004. Take de-linking. Prior to Act 51, only 20% of emergency calls, a school will call and say their toilets are broken or their windows are broken or whatever, only 20% of emergency calls were done within two hours. Now it's 98%. That's 98% of the time when a school calls and says we need an emergency repair, it is responded to within two hours. The Minority Leader might think that's fake, but I don't.

"Let's look at student achievement. Since 2003, Hawaii increased its scores in fourth grade math by nine points. The rest of the nation Mr. Speaker, five points. Keep in mind, a gain of ten points on the NAEP score is equivalent of a year's progress in that subject matter. Now I know the Minority Leader may not be able to rebut this again for a second, or third time and all the rest. I would welcome her sending to my office her research that compares that gain with any other state during that same equivalent period of time, and show me, show me what other states have had a greater gain in that NAEP score over that same period of time. I would welcome that. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, in support with just a brief comment. One of the reasons that I'm supporting this measure is because in my mind, it forces the Board of Education to run a little more like the University's Board of Regents. That's a fair system, with a lot of checks and balances, and we see a lot of input. And when there's a problem at the University we know exactly who to hold accountable and the Legislature always does take action.

"In addition, the Board of Regents is a reflection of the Governor's Administration and that's always given the Governor a lot of incentive to take action when there's a problem. I believe that our democracy is about changing a system that needs improving, and I think that this is a fair measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2377, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 40 ayes to 11 noes, with Representatives Bertram, Carroll, Ching, Finnegan, Hanohano, Marumoto, McKelvey, Rhoads, Souki, Thielen and Ward voting no.

At 12:34 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2377, HD 3, SD 2, CD 1

Conf. Com. Rep. No. 156-10 and S.B. No. 2589, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2589, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

At 12:34 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 12:43 o'clock p.m., with Vice Speaker Magaoy presiding.

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

"Mr. Speaker, on Conf. Com. Rep. No. 156-10, in opposition, and a ruling on a conflict. My son goes to Voyager Public Charter School," and the Chair ruled, "no conflict."

Representative Finnegan continued in opposition to the measure, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I was really hoping for the best with this bill. This is a bill that relates to Charter Schools and the purpose of this measure is to require the Department of Education to give reasonable consideration to making available all or portions of the school facilities to Charter Schools when it considers whether to close a public Charter School. What it also does in this bill is it adds in some language regarding funding and funding formulas.

"Mr. Speaker, this has been a contentious part of Charter Schools because as you know, the Charter Schools feel like they have a really difficult time with the amount of money that they're given and appropriated by the Legislature and the Governor. And throughout the years, we've given them a pretty good funding formula, but when it comes down and when it goes through the system, it ends up not being what was originally, I guess, defined in the statute.

"What this particular bill does, and I appreciate some of the really good parts of it trying to have the Charter Schools have access to facilities, State facilities, as well as it does some other things in here that I do support. But overall it changes, it inserts some wording that to me is not good for the Charter School movement.

"The funding formula, by putting in just the simple words, 'general fund.' It basically changes some things in here that says, beginning with fiscal year 2010-2011 and each fiscal year thereafter, the non-facility general fund, that's the part that's inserted, per pupil funding request for Charter School students shall be the same as the general fund per pupil amount to the Department in the most recently approved Executive budget recommendation, and it goes on from there and inserts general fund throughout the bill.

"Mr. Speaker, the reason why I'm against just having the general fund area is because time and time again, when we talk about Charter Schools and equal funding, the portion is not whether or not the general fund is the only portion that should be given to the Charter Schools, but all of the other funds whether it be federal funds, whether it be all the different kinds of modes of funding that we have for the Department of Education should also be included in there. And what this does is it takes Charter Schools from at one point in time, receiving some, still not equal funding because facilities funding and all of this other stuff, and it starts to deteriorate, and deteriorate, and now it would be equivalent to what I believe is around \$5,500 per student.

"Mr. Speaker, that's a real small amount for these Charter Schools to operate on. And I understand that many of the Members don't really understand the way that Charter Schools operate, or the funding formula, and how that works, but that really is kind of like the 'poison pill' in this bill.

"There is another part of this that I think is difficult. And when people are looking for loans, whether it be for building their schools, there's a part in here that is a good part, but we don't know what the repercussions of that part will be and that is the review of the Charter School detailed implementation plan. I just said for the Charter Panel to have that responsibility to do it every six years.

"I'm not sure. I have to look and see what else the language says, but if you lose your charter because the Charter Panel does not respond within that six-year period or does not review the school, how does that affect the school, as well as when you have that kind of language in the statute, will the banks make a commitment to help fund facilities for these Charter Schools if they see that it's possible the school may close down in six years?

"So because of those things, I am going to be voting no, but I would also like to just say I realize that there were many efforts to try and help the Charter Schools this year and I'm not sure. I don't think it was intentional, but I do know that that's the effect that will take place in the formula, as well as I feel it would happen with the facilities. Thank you."

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

"Mr. Speaker, I'd like to ask for a ruling on a potential conflict. At my law firm, I represent some Charter Schools. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2589, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Finnegan voting no.

At 12:49 o'clock a.m., the Chair noted that the following bill passed Final Reading:

S.B. No. 2589, SD 2, HD 1, CD 1

Conf. Com. Rep. No. 157-10 and S.B. No. 2124, SD 2, HD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2124, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising in support of the measure, but with reservations. Thank you. I strongly support getting the students back into school. I think everyone in this Body does want that, but I also felt that we could have done it a different way. And in fact we did on our budget that is up online that I believe our Hawaii Kai Representative

will probably mention. We could have done it without making this anything other than a loan.

"In talking with some of the experts in this State, they were mentioning that we generally are subject to hurricanes about every 10 years. We're 17 years out now, which means that in the event we're hit with a hurricane, we're going to have a much lower amount in the Hawaii Hurricane Relief Fund and that's going to impact everyone in the State. So I think that had we done this taking it out as a loan, it would have been a much wiser move, and I'm sorry to see that that isn't in the final version. Thank you."

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

"Thank you, Mr. Speaker. In support. I think the Governor spoke quite eloquently on the purpose of the Hurricane Relief Fund and it's relation to the purpose of this particular bill. Thank you."

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

"Mr. Speaker, I rise in support with reservations and a request for written comments, but a brief comment at present. Mr. Speaker, at the beginning of this Session, the priority of not only this Caucus, but I'm sure everyone here was to end Furlough Fridays. This bill pushes it down to where we can fund it, but it puts a hole in the budget. Blows a hole in the budget down the line of which this Caucus, with this floor amendment tried to say, 'You don't need to do that.' And my colleague from Kailua referred to the online budget that lists all the revenues, all the expenses, all the choices. And by just putting an 'X' to it, you can increase or decrease the ending balances.

"Mr. Speaker, we don't need to raid this Fund. We don't need to put in jeopardy the people of Hawaii in the event there is a hurricane, in the event that these funds are needed. We can simply pay it back, and I can't see any reason even politically, or intellectually, or whatever, why do we have to raid the Fund? It's not needed economically, and why we're doing it politically, I'm just confused. So Mr. Speaker, this is a good bill, but it has consequences which are not good. Thank you."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am presenting written comments in support of SB 2124, relating to the Hurricane Relief Fund. The bill raids the Fund to restore instructional days for the 2010-2011 school year. The goal of the Minority Caucus for the 2010 Session was to end the school furloughs, but we should borrow the funds – just as I proposed in a floor amendment last week. When the government takes money from the people for a specific purpose, the government should keep its word. This bill doesn't do that, and it doesn't provide assurances that the money taken out of the fund will ever be returned. On top of that, the bill ignores Charter Schools and doesn't recognize those who took pay cuts in order to keep their schools open when others simply stopped working.

"Unfortunately, though, this is the only bill we have to end school furloughs. There's a lot that's wrong with it, but I'm confident that we can introduce solutions to the many problems it has next year. For these reasons, Mr. Speaker, I support SB 2124."

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

"Thank you, Mr. Speaker. In support. First of all, I don't know. You can go to the spreadsheet any day. I'm not sure, but I saw part of the plan that was to take the county TAT, which would have raised property taxes, but that aside.

"First let me go to the Hurricane Relief Fund. For many people I think there's a little misnomer of what it is. It was set up many years ago, not to provide an emergency fund to provide emergency relief. It was setup as an insurance fund, and why is because after Iniki, it did so much damage that many insurance companies left the State. They stopped offering insurance coverage. So if you went to a bank to get a loan, the bank required hurricane insurance. So if you couldn't get the insurance, you couldn't get a loan.

"And that's why this fund was set up. It was to help the real estate market and the bank market. It had nothing to do with setting aside emergency funds to help the people of Hawaii in a state of emergency. It was for purposes of commerce.

"I'm not sure why people are referring to this as if we take the money the people will be exposed. There are many things that will happen should a hurricane hit including FEMA, as well as other State resources to come in to ensure the public safety and health. But the Hurricane Relief Fund was not meant to be one of them. Thank you."

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

"Thank you, Mr. Speaker. In support. May I have the words of the previous speaker entered in the record as if they were my own? And just for the edification of everyone, the Hawaii Hurricane Relief Fund Program has sunsetted. There is no Hurricane Relief Program right now. This is just a fund. And second of all, many of reinsurers left the market because they were also big players in the Florida market, and Andrew and Iniki hit almost simultaneously that same year, Mr. Speaker.

"So I just want to reemphasize the words of the previous speaker and there is no Hurricane Relief Fund Program because the program has sunsetted. What you have is this money, and if this is what it takes to put our kids back to school, then I believe it's for good use. But it's not available to the public for hurricane disasters. It's not meant for that and the program is no longer in existence. Thank you, very much."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. Still with reservations. I was here during the period when we put together legislation that established the Hurricane Relief Fund and it was for the purpose of being able to buy reinsurance so we would be able to provide the coverage for the homeowners in Hawaii. The difficulty is, that it's not if we're hit with a hurricane, it's when. It will happen and we're going to be in the same situation where we're going to not have the adequate funds to be able to buy reinsurance to be able to provide then, and to get the insurance companies back into Hawaii.

"We've been through that once before. It was a very scary time for people. A very scary time and this legislation was crafted with a lot of thought to take care of that kind of a situation and that's why the loan would have been more prudent and the loan would have made everyone safer in Hawaii. Thank you."

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

"In support, Mr. Speaker. I was on the CPC Committee when we established this Fund and it was right after Iniki. We had to rush in and do something like one of the previous speakers said. We had to provide insurance so that we could get loans to buy homes.

"Now for those who think they have a continuing financial interest in it, you already got what you paid for. You bought an insurance policy. Your home is covered. And when that policy lapsed, you no longer had interest in this Fund. The Fund just sits there. It is not a hurricane insurance fund. It should be a reinsurance fund, but it's not.

"It should be transferred and made into a natural disaster fund, but it is appropriate to use this fund because when you paid into an insurance fund, you got a policy. And when that policy lapsed, you no longer have an interest anymore than you have an interest in State Farm who covered your home last year and there was no hurricane. You have no financial interest in State Farm."

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

"Thank you, Mr. Speaker. I rise reluctantly in support, but with some deep reservations. Thank you, Mr. Speaker. I'm voting in favor of this measure because it's the only way it seems we're going to be able to restore

those instructional days, and that has been a great disappointment. It would be putting it lightly to say it's a disappointment for the people of Hawaii.

"But an additional disappointment is that we are really raiding this Fund, and aside from whether or not it's going to be used for hurricanes later or what have you, it's the message we send. Again the message we send to the taxpayer is that if we say we're going to have you pay into a fund for this purpose, just know that years may go by and we're going to take it.

"I know that was part of the conversation earlier. And what we're doing is we're not using the Fund for what we said. So we're basically telling the taxpayer, 'Yeah we're going to take this money, but now we're going to use it when we have to,' which is to me in part why I think some people just don't trust us that much. Thank you."

At 12:59 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 1:01 o'clock p.m.

Representative Finnegan rose, stating:

"Thank you, Mr. Speaker, I'm going to start off being with reservations and depending upon how I end with this bill, I may turn my vote into a no. But, with reservations for now.

"Mr. Speaker, I know that this is a very serious subject and after reading this bill and having a good conversation with the Finance Chair, I do want to explain my deep reservations on this bill. Prior to this CD 1, which I didn't have the opportunity to see in Conference Committee when we voted, it was a bill in the House Draft form that had language for Charter Schools and giving money back to Charter Schools with the same language of intention and all of this stuff for furlough days, or instructional days. It's no longer in this bill, so basically now, not only does it take out the specific language for Charter Schools, but it also takes out the expending agency of the CSA or the Charter School Administration office.

"My understanding is that doesn't necessarily mean that the money cannot go to the Charter Schools, but if it was intentionally left out and it has to go through the DOE, now the Charter Schools are at the will of the Department of Education on whether or not their instruction days will be fulfilled through this money.

"Second point Mr. Speaker, is after taking a look at the specific language on page 3 it says, 'It is the intent of this Legislature that the moneys appropriated by this Act be expended solely for the purpose of restoring public school instructional days and that no moneys appropriated by this Act be transferred or used for any purpose other than restoring these instructional days.'

"If I take what I think is instructional days, then if there are schools out there that decide they're going to go through the HSTA and change their professional days or PD days to instructional days, or if they trade any of those days out, because now those days become instructional days, you cannot get money from this bill.

"That penalizes those who make the decision to bring back their kids to school even though they might have suffered, whether it be teachers, or principals, or whatever. I think because they made that decision to change those days that this bill will not give them back money. It's only for instructional days. So if they have three instructional days left, they will be able to get those three days paid for, but if they traded those days and they had three days that they traded, you wouldn't be able to bring them back from the money in this bill, from what I read.

"The second thing is for instance, the school that my son attends, my understanding is that they did take a pay cut. So if they take a pay cut and now they have their professional days, they took a pay cut, they're coming in, they have the instructional days. Because the teachers took a pay cut, this doesn't allow them to put the money back to reinstate the money that they should be earning whether it be four percent or whatever it might be. But it doesn't allow that because again, it states over here, 'the money

appropriated will be expended solely for the purpose of restoring public school instructional days.'

"Now, making a decision. What do I do? Missing also in here is it doesn't have the chance. I think we should have expanded it. If we wanted to, we could have put in the missing language in here. It doesn't have 2009 to 2010, so even if there was agreement ..."

Representative Manahan rose, stating:

"I think somebody should yield their time. Thank you."

Vice Speaker Magaoay responded, stating:

"Her time is not up yet. Representative Finnegan, please proceed."

Representative Finnegan continued, stating:

"Thank you for being so attentive, Representative. The missing '2009 and 2010' language in here doesn't give the flexibility that if they did come back to the table, that we could use this money for 2009-2010.

"And then the last thing, regarding reinsurance. Absolutely, I believe whether or not the Fund says that it could be used for reinsurance or whatever the Fund is called, this pot of money, I realize 100%, understand this to be exactly what the Representative from Ka'u explained it to be. That this is a pot of money that I think we can use for reinsurance purposes. When the Representative from Kaneohe was talking about how this helps the banks and this helps the real estate market. I don't see it as the banks and the real estate market. I see it as the people who ..."

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

Representative Finnegan continued, stating:

"It's okay. I won't be long. Just a short part to this is when you're talking about helping banks and helping real estate. It really is about helping people. There were families that needed to refinance. I was in the business at the time. There were families that needed to refinance. There were families that needed to take cash out to do repairs or whatever to their homes. These are families and people, not banks and the real estate market.

"The reason why they needed that, and the possibility of foreclosure on their home because they didn't have insurance on their home, and possibly a foreclosure of their home. We were helping people. Getting them insurance or getting them this reinsurance so that they could enter the market again so that we could have mortgages on the properties.

"So that's why it's important, Mr. Speaker. It's not, it's a Fund. It also in that time, served us well in our bond rating because they saw this as reserves for the State. So Mr. Speaker, I think in my conclusion, I will be voting no. Thank you."

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

"Mr. Speaker, I rise in support of this measure. Thank you, Mr. Speaker. The reason why I rise in support is, if we support ending furloughs in our schools we have got to support this bill. If you vote no, you're saying you want furloughs to continue. There's no other option, Mr. Speaker. The Governor even has come down and told us that she urges us to pass this particular bill. We need this bill. If you want furloughs to end, you must support this bill.

"I know we have concerns regarding the Hurricane Fund. Everybody struggled with using the Hurricane Fund, but we need to end furloughs and this is how we're going to do it. Thank you, Mr. Speaker."

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

"I'll be voting in opposition, Mr. Speaker. But I do want to publicly say that I do support ending furloughs. What I'm against is bad government, and this is bad government. People want to believe in us. That when they

give us their hard-earned dollar, that we're going to use it for what we promised them what we're going to use it for.

"So we promised them that we'll use their dollar for a natural disaster, but instead we're stealing it from them and using it for a manmade disaster. That's what this has been about; a manmade disaster. It has never been about the kids. It always been about a power struggle. And instead of us really being able to take the time to really discuss how we got to this place because of a failure in leaders to really make a strong educational system that really produces the results that our kids need.

"I have struggled with this vote all Session. But in the end, it's the message that we're going to send to these very kids that we're trying to get back into school. And that is, if I promise you that I'm going to give you a dollar if you do this, and then later on, 'Oh you know, I made a mistake. I made a mistake so you can't have that dollar for what I promised you for.'

"To me, this is just really about a vision for the future. Instead right now we're scrambling to pick up the pieces of our mistakes. I'm very proud of all the parents and the students that came here to protest what has happened in the school furloughs because we all are to blame. And we easily just brush them off our shoulders, saying that we're not to blame anymore. We're going to take this money and we're going to use it to end this problem. We're the hero.

"I just can't sleep at night knowing that in 2012, we're going to be exactly where we are today because this funds only the school year for 2010 to 2011. Which fund are we going to raid next? Because the economy is going to be just as bad.

"I want to deeply apologize to all those people who feel that I am against ending furloughs. That couldn't be farther from the truth, and that is why I supported a borrowing of these funds which means that, we tell that kid that we promise to give them a dollar for an action that they would do. And then we'll say, 'You know what? Some bad things happened. I can't give it back to you this time. But I might keep my word that I'm going to give it back to you when I have money again. When I fix the mistake that I made.'

"It's just so important for us to build a trust because by fixing this problem here, we're going to make people happy that they're going to go back to school. But tomorrow we're going to hear from the people that paid into this Fund and we can debate all we want about, well technically this Fund was for something else, so technically we don't need it anymore. Technically FEMA will be here. But we gave our word to the people that we would use this money in relation to natural disasters. What are we going to say when that hurricane hits? God forbid it happens very soon and we don't have the money to deal with the situation. Then we're going to be scrambling once again, Mr. Speaker.

"Again I apologize to my colleagues for disagreeing with you on this issue, and to all the kids, and the teachers, and the parents. I do support you."

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

"Thank you, Mr. Speaker. I will be brief. I'm in favor of this bill and I think it's very necessary that we get our kids back into school. I think that's what the citizens out there expect us to do. If there's one thing we should do this year, it is to get our kids back to school. And I would say that the Legislature has done its share. We are putting up \$67 million to restore teaching days and I think that our actions speak very loud.

"Now this money will be released pending agreement by all stakeholders in this. All parties must get together at the negotiating table and make this happen via collective bargaining, and that includes the Governor, the Board of Education, the Department of Education, and the HSTA. So we're doing our share. Now it's up to them. The money's there and we've got to get our kids back to school.

"There's a Japanese saying, '*Kodomo no tame ni*,' which means: For the sake of the children. So for that reason, I'm very glad we are passing this measure. Mahalo."

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

"Thank you, Mr. Speaker. May I have a ruling on two potential conflicts. My law firm is representing a class of students, public school students, who are challenging the furloughs for this year and next year," and the Chair ruled, "no conflict."

Representative Belatti continued, stating:

"My second conflict Mr. Speaker, is that my daughter will be entering kindergarten at public school next year, and I detest these furloughs," and the Chair ruled, "no conflict."

Representative Belatti continued in support of the measure, stating:

"For that reason, for my daughter, and for the 178,999 other students who are in the public schools, I support this bill. Thank you."

Representative Herkes rose to respond, stating:

"Thank you, Mr. Speaker. Still in support. We established HHRF as a direct insurer so that you could get a hurricane insurance policy on your home so that you go get a loan or whatever you needed to do. And so it was a direct insurance company. You paid the premium into HHRF. When your policy lapsed, you no longer had a financial interest in HHRF.

"To say that we put money in this so that this Fund will help us for the next hurricane, if a hurricane comes, this Fund is not going to go fix your house because this Fund has no interest in your house. And so let's not be misleading the public about this issue."

Representative Thielen rose, stating:

"Mr. Speaker, just a point of clarification. Thank you. I understand what the speaker from the Big Island is saying. What we're saying is, the Fund was put together and sold to the insurance policy holder to buy reinsurance."

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

"Point of order, Mr. Speaker. There's no such thing as a point of clarification. She either gets to rebut, or that's it. Thank you."

Representative Thielen: "My point of clarification is that it was to ..."

Representative B. Oshiro: "Point of order, Mr. Speaker. Again, there is no such thing as a point of clarification. Unless she can point it out in this *Mason's*, I would suggest she either rise on a point of order, or a point of inquiry, or you rise on rebuttal. That's it."

Representative Thielen: "I'll do a point of whatever you ask me to say it."

Vice Speaker Magaoay: "Representative Thielen, you have a choice. You have a choice or you sit down."

Representative B. Oshiro: "It's not my choice. I would suggest she read *Mason's* and follow the manual's procedure."

Vice Speaker Magaoay: "Representative Thielen, you have a choice. Or you can sit down."

Representative Thielen: "A point of inquiry, or a point of personal privilege. It was to buy reinsurance. That is ultimately what helped the homeowners because it would bring the insurance market back into the State."

Representative B. Oshiro: "Point of order, Mr. Speaker. A point of personal privilege as defined under *Mason's* section number 223 is not what she's talking about. Thank you."

Vice Speaker Magaoay: "Thank you, Representative Blake Oshiro. Representative Thielen, please sit down. Thank you, very much."

Representative Chong rose to respond, stating:

"Thank you, Mr. Speaker. I just would like to give some comments in rebuttal. First of all, I find myself in agreement with the Representative from Pearlridge. He said it best. A vote of no on this bill is a vote to continue furloughs. Plain and simple. This is it. This is what's in front of us. This is the solution for now.

"Secondly, is to clarify my characterization. Yes, it was for homeowners. I totally understand that. But I was just trying to make the distinction that this isn't to save people's houses or to provide emergency relief. This is an insurance fund just like the Representative from Ka'u and Kailua had said.

"Third. Yes, let us go back to the original intent. Act 339, Session Laws of 1993 when this was originally enacted. And part G, upon dissolution of the fund the net moneys of the Hurricane Reserve Trust Fund shall revert back to the State general fund. Everybody knew this was the deal. This is not what we were talking about necessarily because the Fund is still in existence, but I think everybody knew at the time when the program dissolves, there is no question where the money goes. Is this the perfect way? I'm not sure. But again, this is to ensure we get our kids back into school.

"And lastly, for those who have questions on the balance and meeting our obligation. Like the Representatives from Kailua and Ka'u said, your premium dollars went to purchase reinsurance. Reinsurance being, if we paid \$100 million in premiums, you can take that money and provide coverage for say, a \$1 billion in asset because the Fund would never have enough money to pay off a catastrophic loss. So where did the reserve come from? The reserve that we see in the Fund now, the \$180-plus million is not premium money. This was the homeowner's premium that you see today. This is the surcharge assessment that was paid in part on the conveyance tax. But by in large, property and casualty insurance assessment, motor vehicle, homeowner, commercial reinsurance. Everybody else who had nothing to do with homeowner's insurance paid into this Fund to help capitalize it because premiums were not going to provide enough capital. So the reserves that you see in the Fund are not people's premium left over from the 1990's, but from people who were charged a surcharge on the property and casualty lines. Thank you."

Representative Souki rose, stating:

"Mr. Speaker, as a 'dinosaur' from the 1990's, I call for the question."

At this time, Representative Souki called for the previous question.

At 1:21 o'clock p.m. Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:28 o'clock p.m.

At this time, the Chair announced:

"Members, the question has been called. If you would like to submit your remarks for or against, the Chair will allow you to."

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

Representative Pine written remarks are as follows:

"Mr. Speaker, I rise in opposition against Senate Bill 2124, Relating to the Hawaii Hurricane Relief Fund. This bill will appropriate funds from

the Hawaii Hurricane Relief Fund to restore instructional days for the 2010-2011 school year.

"The Hawaii Hurricane Relief Fund was set up in 1993 by Act 339 to provide hurricane insurance for consumers purchasing new homes. After Hurricane Iniki devastated Kauai and Oahu in 1992, private insurance companies refused to offer hurricane coverage in their policies. Hurricane coverage was a requirement in order to obtain a mortgage when purchasing a new home. Therefore, any consumer who chose to purchase a new home had no choice but to purchase hurricane insurance from the Hawaii Hurricane Relief Fund.

"Many of my constituents support ending furloughs, and restoring instructional days, but strongly oppose raiding the HHRF as the solution. Some would like the money they paid into the Fund refunded to them. Others believe that the HHRF should be set up as a rainy day fund in order to address future disaster mitigation.

"Some believe that the Fund should stay as is. In the event of a future hurricane, there is a possibility that private insurance companies could once again refuse to issue hurricane coverage. The HHRF would address this issue once again, and begin issuing hurricane policies immediately.

"On a fiscal note, the vast sum of money sitting in the HHRF is a benefit to the State of Hawaii. Having a large cash reserve is a positive impact on the State's bond rating. Raiding the HHRF could have a negative impact on the State's credit.

"Mr. Speaker, I support ending furloughs and restoring instructional days, but strongly believe that there were other solutions. Stealing money from the homeowner and raiding the HHRF was the easy solution. This Body should have found a more creative and bolder solution that would put children back in the classroom."

Representative Finnegan rose, stating:

"Mr. Speaker, I'm going to change my vote to a strong reservations Mr. Speaker, because this penalizes Mr. Speaker, those who made good decisions for our kids."

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

Representative Ward rose, stating:

"Mr. Speaker, I have a point of personal privilege with the Majority Whip. He infused the TAT tax increase with a Minority's balance budget being that we took 20% of it. He implied ..."

The Chair addressed Representative Ward, stating:

"Representative Ward, that doesn't pertain to the bill before us."

Representative Ward: "So a point of personal privilege has no place before a call for the vote? Is that what you're saying?"

Vice Speaker Magaoay: "The debate is over."

Representative Ward: "The point is he misspoke."

Representative B. Oshiro: "Point of order, Mr. Speaker. Under *Mason's*, a point of personal privilege is only when a Representative has been aggrieved in their professional capacity as a Representative."

Representative Ward: "I spent hundreds of hours on that on-line budget."

Vice Speaker Magaoay: "Representative Ward, would you please sit down? A call for the question has been made. Either you're for the bill or ... Yes, Representative Ward."

Representative Ward: "I would like to rebut what otherwise in a democratic process you can usually say freely and openly as they do in the Senate. I have not changed my position of being for this measure with reservations."

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

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

"Thank you, Mr. Speaker. I support S.B. 2643 S.D.2 H.D.1 C.D.1 which appropriates funds from the Hawaii Hurricane Relief Fund to restore instructional days for the 2010-2011 school year. If there was one task the Legislature needed to address this year, it was to provide funding to restore instructional days to our public schools.

"It is pointless for the Legislature to place blame for the existence of Furlough Fridays. It is what it is. I do not doubt that Furlough Fridays resulted from difficult decisions made by the Governor in restricting educational funds and by the board of education, Department of Education, and Hawaii State Teachers Association in addressing those restrictions in part with school furlough days. Hawaii's children have lost almost three weeks of instructional days during the current school year and stand to lose between seventeen to twenty-one days during the next school year.

"Prior to school furloughs the Hawaii Public School system was already struggling. If we believe the rhetoric that our children are our future, the Legislature must fulfill its role as appropriator of public funds to set aside the moneys that will be required to eliminate Furlough Fridays.

"As our colleague from Waiiau has summarized, this is the only vehicle before us to address the furloughs and a vote against the bill is a vote to do nothing.

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

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 Senate Bill No. 2124, Conference Draft 1, Relating to the Hawaii Hurricane Relief Fund. This bill appropriates \$67 million from the Hawaii Hurricane Relief Fund to restore public school instructional days that were lost because of furloughs resulting from the collective bargaining agreement between the Governor, the Board of Education, the Department of Education, and the Hawaii State Teachers Association.

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

"As stated in the purpose clause of the bill, Hawaii is in the midst of the most challenging economic times it has ever faced. To address this situation, the Administration, the Board of Education, the Department of Education, and the Hawaii State Teachers Association took the unprecedented step of instituting furlough days for Hawaii's educational system, resulting in the loss of nearly three weeks of instructional days during the current 2009-2010 school year and anywhere from seventeen to twenty-one days during the next 2010-2011 school year.

"This Legislature found that the loss of these instructional days may have profound impact on our youth. Not only will this be devastating to the quality of their education, but it may undoubtedly affect their ability to thrive in the workforce. It is essential that we provide our young citizens with the basic skills needed to enter a post-high school educational endeavor, obtain and retain good-paying jobs, and that can only happen if our educational system is providing essential skills to our youth.

"From a public policy standpoint, this bill stands as a major shift from the way things were done in the past. Never before has the Legislature approved additional resources to supplement a previously approved

collective bargaining agreement for a single bargaining unit over those of all the others. And already, the ramifications of this policy shift are reverberating among the halls of the public sector unions, likely causing many to reevaluate the way they will need to negotiate their contracts in the future to survive. They will also need to find better ways of obtaining public acceptance and support for their cause. Still, this is an unprecedented act of the Legislature to open its purse strings and allocate a sum of money, no more or less, and leave on the table for the bargaining parties to expend.

"Be that as it may, by supporting this bill, we are stating that education is of utmost importance to the prosperity, health, and growth of the entire State – that despite the realities of severe budget cuts, the elimination of programs and services, and the need to look for additional sources of revenue, this Legislature saw fit to appropriate \$67 million in extremely limited resources to send our kids back to school. Never before had we had to do this. And hopefully, with the recovery of our economy, we will never have to do this again.

"For the record, Mr. Speaker, I want to make three very important points. First, to all of the public sector unions, I urge the bargaining representatives to work together for the benefit of all. Desperate times have called for desperate actions, and it is in that context that this bill should be viewed. It should in no way be construed as the Legislature putting one bargaining unit ahead of the rest. During these times of reduction-in-force, furloughs, and pay cuts, solidarity among the collective bargaining units is even more essential.

"It needs to be emphasized over and over that the current Administration that created this debacle will only be with us for less than six more months. I ask that our public union leaders and all good men and women in our public sector not allow the "seeds of resentment" to find fertile ground among your members. Seek *loka'i* and *lailima* and ensure that the "seeds of dissention" scattered among you by Governor Lingle will not be given any room to grow. Her Administration is coming to its unimpressive ending. We must heal these wounds and stand committed to preserving what is best for the common good and those who remain.

"Second, there is a misconception that the use of funds from the Hurricane Relief Fund is somehow a misappropriation of public moneys for unintended purposes. I want to make very clear that there is nothing inappropriate in using these funds to end furloughs.

"When the Legislature established the Hawaii Hurricane Relief Fund pursuant to the enactment of Act 339, Session Laws of Hawaii 1993, it was to ensure the continued provision of mortgage lending and commercial loans in the State. After the devastation caused by Hurricane Iniki and a worldwide insurance crisis precipitated by numerous natural disasters, property and casualty insurers in Hawaii were not able to obtain sufficient reinsurance – or insurance for the insurance companies to resolve simultaneous catastrophic claims for an entire region – to cover risks in this market. Many private insurers left Hawaii's market, or specifically excluded windstorm risks from homeowners' policies. Without that type of coverage, mortgage lenders refused to lend capital for the purchase of property, and unless something was done, this situation could have had a devastating impact to our economy.

"Accordingly, the Legislature created the Hurricane Relief Fund to "assess the availability of insurance from all sources and be empowered to take steps to provide coverage should the private market prove unreliable." Conceptually, the Hurricane Relief Fund was similar to the Joint Underwriting Plan utilized under Hawaii's No-fault Motor Vehicle Insurance Law which allows persons who are unable to obtain coverage through private insurers to obtain coverage in a manner that the risk to be spread among the entire market.

"In 2002, the Legislature enacted Act 179. SECTION 1 of the law is informative:

"... The legislature finds that it is necessary to make the best possible use of all available resources, including using funds from the inactive hurricane reserve trust fund. This fund was originally created to provide hurricane insurance coverage to Hawaii homeowners during a

period when private insurance was unavailable or prohibitively expensive. Now that private insurance is readily available at reasonable prices, the fund is no longer issuing policies and the balance of the fund is unused. . . ."

It should also be noted that Section 431P-16, Hawaii Revised Statutes, states:

" . . . Money in the hurricane reserve trust fund may be . . . disbursed upon dissolution of the Hawaii hurricane relief fund; provided that . . . the net moneys in the hurricane reserve trust fund shall revert to the state general fund after payments by the fund . . ." [Emphasis added.]

"It is clear from the legislative history that the proceeds in the Hurricane Relief Fund were intended to address the lack of adequate property and casualty insurance coverage during the 1990, when private insurers left the Hawaii market. The Hurricane Relief Fund was a stop-gap measure modeled after the Joint Underwriting Plan to address this temporary situation. And when the market stabilized, the moneys in the fund were intended to revert to the General Fund.

"Mr. Speaker, the moneys in the Fund should be viewed as premiums for any insurance policy. During the term of coverage, the State indemnified the policy-holders for a premium. Once the term ended, the premium is kept by the indemnifier. That is its earnings for the risk covered. Would you expect Island Insurance to give back the premium to a motor vehicle insurance policy holder once the term ends if the policy holder didn't get into an accident? Would anyone expect HMSA to send us a rebate check if we were to go through a year without seeing the doctor for a cold? Or, does anyone really expect to receive a refund check from State Farm if we did not suffer any house fire or any wind and rain damage during the year? The same holds true here.

"Finally, my third point is this – Senate Bill No. 2124, Conference Draft 1, and its deviation from the past and traditional collective bargaining funding decisions of the Legislature is warranted to address an emergency occurring in our public schools that keeps our students out of their classrooms for far too many days. It is the exigent circumstances of the instant circumstance and it is not intended to establish a new approach to collective bargaining practice and procedure under the provisions of Chapter 89, Hawaii Revised Statutes, but is solely limited to addressing the present existing contract between the DOE, BOE, HSTA, and Governor regarding the School Years 2009-2011 and the teacher furloughs set forth therein.

"The parties, especially the DOE and BOE and HSTA should also take notice that in its Supplemental Agreement entered into between the parties, dated March 24, 2010, and ratified by the members of the HSTA on or about March 31, 2010, and paragraph 7, pertaining to funding levels contained with the Supplemental Budget Act of 2010, therein should not be viewed as having any bearing on or relevance to the decision of this Legislature to appropriate \$67 million dollars in the instant bill. In fact, but for the fact that I had received a letter addressed to me, dated April 23, 2010, from Acting Superintendent Kathleen Matayoshi, expressing that the parties to the contract do not intend to effectuate the terms of the furlough provisions notwithstanding its placement in their Supplemental Agreement, I would not have supported this measure until such provision was stricken and made my public displeasure of such artifice even more acute and sensational.

"Mr. Speaker in this Member's humble opinion, such provision is null and void as against public policy and a clear violation of established constitutional powers reserved exclusively for the Legislative branch and future Board of Education members and Department of Education administration should reconsider such offensive and unconstitutional provisions in future agreements.

"For these aforementioned reasons, I urge my fellow colleagues to support this bill."

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

Representative Awana's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in strong support. The purpose for this measure is to restore instructional days to our public schools. As a legislative body, because it is within our power to assist in this national embarrassment, I would encourage strong support for this bill. We cannot continue to have our students, young adults, our future leaders to go without. Someday, they will be influential in families, our neighborhoods, and our State and even in some cases, in our nation.

"Now is the time to empower our students with the skills needed to succeed in life. These skills are acquired in the classroom with teachers. This bill will provide the means for teachers to return to school and back in our classrooms with students. We can choose to do something, or do nothing, and I choose to do something and support this measure. This is the only measure – the only measure Mr. Speaker, that will get students and teachers back in the classroom. For these reasons, I stand in strong support. Thank you, Mr. Speaker."

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in support of SB No 2124, SD2, HD1, CD1, that authorizes the use of the Hawaii Hurricane Relief Fund for restoring instructional days in our schools. Though I understand the concern about hurricanes on Kauai and the resulting issues affecting real estate transactions, I am equally concerned about our children's education, and support using this Fund (a program that has expired) to get our children back to school. This action sends a message urging the Governor and applicable labor unions to come to an agreement to end furlough days and restore our children's instructional days."

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

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

"I rise in support of SB2124, SD2, HD1, CD1, which provides \$67 million from the Hawaii Hurricane Relief Fund to end teacher furlough days at our public schools.

"Education is our most important priority and hopefully the Governor and all the concerned parties will soon agree to end the furloughs. I believe it was a misguided attempt to save money, and has had a damaging effect on our school system. I am grateful that we have passed HB2486, which requires minimum instructional hours to be phased in over the future years. We must not let furloughs happen again in our public schools.

"I urge the Members' support for SB2124."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2124, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

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

S.B. No. 2124, SD 2, HD 1, CD 1

Conf. Com. Rep. No. 158-10 and S.B. No. 2469, SD 2, HD 2, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that S.B. No. 2469, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Mizuno's written remarks are as follows:

"Mr. Speaker I rise in support of SB2469. In 1999, the Legislature established the Emergency and Budget Reserve Fund as a temporary supplemental source of funding for the State of Hawaii in times of emergency, economic downturn, or unforeseen reduction in revenues. As set forth in section 328L-3, Hawaii Revised Statutes, specific purposes for the Fund include the maintaining of levels of programs determined to be essential to public health, safety, welfare, and education.

"The House and Senate Human Services Conference Committees determined that difficult economic times and declining tax revenues have resulted in budget cuts for all State services, and that some of the most vulnerable and needy members of the community will be the hardest hit by the reduction in services. Therefore, the Conference Committee finds that funding of certain programs and entities such as community centers, domestic violence shelters, the Shelter Plus program and housing placement services allows members of the community to continue working as opposed to being forced to quit their jobs due to economic downturn or personal difficulties. Funding programs such as respite services, the Kupuna Care Program, Volunteer Legal Services Hawaii, the Legal Aid Society of Hawaii, the Hawaii Family Law Clinic and the employment core services of the Office of Community Services promotes the hiring or retention of current staff positions, all of which in turn keeps our citizens working and fosters a stronger economy.

"Mr. Speaker and Members, during the most difficult recession in our State's history, we needed this bill to ensure essential services to Hawaii's most needy. We provided funding for services such as *kupuna* care, Meals on Wheels, domestic violence services and shelters, services for the disabled, immigrant services, caregivers, care homes, medical centers for sex abuse victims, gang reduction funding for Adult Friends for Youth, child care subsidy services, substance abuse treatment, housing for the homeless, HIV/AIDS services, mental health, uninsured healthcare for children, legal services, senior centers, and respite care. Today defined us as a State that cares for its most needy residents.

"I humbly ask all Members to support the passage of this most important bill for Hawaii's future."

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

"Yes, Mr. Speaker. In support with just some reservations. Now this is a Fund that is good government because this is the Emergency and Budget Reserve Fund that was meant specifically for social services. That's what we promised the people of Hawaii that this would be for and so I'm very proud that we have kept our word to the people of Hawaii and we didn't use it for something else that it was supposedly going to be used for earlier this Session.

"My only reservation is that this is almost like a grant-in-aid list all over again, and I would have liked to see maybe a little bit more discussion. I know there was some in the Committees and stuff, but it wasn't something that was discussed a little bit more openly in this forum. So I really didn't see what was going to go into this until just a little while ago, but I'm very happy that we are going to help all those social services that are really truly the ones that are in need of these funds being used."

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

"In support, Mr. Speaker. And I'll be very brief. I just would like to thank the Chair of Human Services, as well as the Chair of the Finance Committee and the members, and also the Way and Means Committee in the Senate, and the Human Services Committee in the Senate for thinking about the homeless population. I think if there's one blatant environmental issue that we need to take up in this Chamber, it is the blight that we see all the time. The things that we read in the paper, and the things that we're being criticized about of not taking care which is the homeless population.

And I'm glad that even though it might like a grant-in-aid list, I'm happy it came about because we do need this funding for the homeless. Thank you, Mr. Speaker."

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

"I'm standing in strong support, would like the written comments of the Chair of Human Services inserted as my own, as well as additional comments. Thank you."

Representative Yamane's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of S.B.2469, Relating to the Emergency and Budget Reserve Fund. This bill seeks to preserve programs that service the State of Hawaii's most vulnerable populations. By allocating moneys from the emergency and budget reserve fund to education, human services, and health programs, we will be ensuring that the shortfall in our budget does not translate into a shortfall in services that affect the wellbeing of our people.

"The passage of S.B.2469 will allow the State to maintain valuable programs including Healthy Start with an appropriation of \$1,500,000, Senior Centers with an appropriation of \$950,000, Kupuna Care with an appropriation of \$3,000,000, programs that provide meals for the elderly with an appropriation of \$500,000, Mental Health programs with an appropriation of \$1,500,000, Keiki Care with an appropriation of \$600,000 and Kokua Kalihi Valley with an appropriation of \$500,000.

"With programs helping everyone from the *keiki* to the *kupuna*, I ask that you support the people of the State of Hawaii by standing in support of this bill."

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

"Mr. Speaker, I just need a ruling on a potential conflict. I work at the Legal Aid Society of Hawaii," and the Chair ruled, "no conflict."

Representative Shimabukuro continued in support of the measure, stating:

"I just want to send a quick *mahalo* to the many advocates who made this possible. We see all the green shirts of FOCUS up there. KKV, AARP, Lanakila Pacific, and many, many others that worked hard on this measure. That's so important for the safety net. 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 in strong support of S.B.2469 - Making an Emergency Appropriation for the Department Of Human Services to Address the Budget Shortfall for Hawaii QUEST.

"I support the services that these programs provide to those in need. I applaud the work of Kupuna Care Services, Catholic Charities Hawaii and Lanakila Senior Center, the Weed and Seed Program, and Moiliili Community Center, to name a few.

"As a longtime supporter of the business sector, I feel that using our tax base to fund these essential services will reduce the cost impact of Hawaii's future by providing aid to those who are most in need in this economic downturn. Thank you."

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

"May I have a ruling on a potential conflict. I am on the Board of Directors for Legal Aid. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, in support. And may I yield my space in the Journal to Chair Mizuno?"

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

"Thank you, Mr. Speaker. May I submit written comments in strong support."

Representative Aquino's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this measure. This bill is very timely, in fact overdue because it is a 'rainy day.' As you know Mr. Speaker, it has been raining for some time now due to the fiscal realities our State is facing.

"The purpose of this bill is to appropriate money from the Emergency and Budget Reserve Fund or the 'Rainy Day' fund to maintain key important programs and services needed by our communities. These educational, health, and human services programs are essential to many residents throughout the State because of the tough economic times we face. The budget cuts have negatively affected State services, affecting many within our needy and vulnerable populations. The appropriations in this bill, Mr. Speaker, will ensure that needed programs and services may continue to service those who need it most. For this reason, I support Senate Bill 2469."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2469, SD 2, HD 2, 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.

At 1:35 o'clock p.m., the Chair noted that the following bill passed Final Reading:

S.B. No. 2469, SD 2, HD 2, CD 1

Conf. Com. Rep. No. 159-10 and H.B. No. 2774, 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. 2774, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Final Reading by a vote of 51 ayes.

At 1:36 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 2774, HD 2, SD 2, CD 1

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.

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.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 1382-10) recommending that H.R. No. 47, as amended in HD 1, be adopted.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.R. No. 47, HD 1, be adopted, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition and in mourning. What does that mean? It means that this resolution is a very poor substitute for which otherwise was probably the best bill other than getting rid of the furloughs in this Session.

"Mr. Speaker, this is a bill that would have put solar photovoltaic on every roof. It went through all of the House. It went through all of the Senate. And then suddenly, it died. Mr. Speaker, we have given so much attention to Hawaii Clean Energy, to self sufficiency, to getting rid of this \$7 billion that we export every year, and we turn an otherwise golden piece of legislation into a resolution.

"We are damning with faint praise, as Shakespeare said, that which we should be holding up and saying, 'Yes, I'm proud to be a Member of this Legislature because of the good things that we did.' And I was proud to speak about this in so many places until suddenly, at the very end, at the 11th hour, this bill morphs from being a substantive, progressive, economically, viable, saving the footprint, saving the environment, saving the world to what now is a weak reso saying, 'Well, we're going to study the problem.'

"That's why we have Committee hearings Mr. Speaker. So we can work out differences. So special interests, whether it be the bankers, or the counties that don't get this yet because they don't see the lessons or follow them, that have already been on the mainland for a number of years.

"I see no excuse for this particular resolution. I see no excuse for us not putting photovoltaic on the roofs of the people, for solar energy on the roofs of the people, and because they have not been able to front the money for the last 30 years we haven't even gone beyond 25% with solar water heating and this would have pushed us way, way, way into the head, not only of the nation, but in the world.

"So Mr. Speaker, for those who stand up and say, 'Well that's not really true. We're going to do it next year.' I hope they really mean that because everybody meant it when they saw this bill before, that we meant business with getting rid of this dependency on oil. And for those who cried for the barrel tax, and those who cried for all of the other taxes to make this happen, I hope they can cry out for those people who are not going to have the solar on the roof, or the photovoltaic because we promised and then we took it away. For those reasons, Mr. Speaker, this is a great disappointment to see the best bill this Session other than furlough removal to be turned into a resolution. Thank you."

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

"Thank you Mr. Speaker, I rise in support of this resolution. Without a doubt, some would like to give the impression that political posturing and bickering was the sole reason for the demise of House Bill 2643, the Property Assessed Clean Energy Program. The Speaker and I have taken the brunt of criticism for not moving House Bill 2643 into Conference, but it would probably be the Speaker and myself that would be saddled with the responsibility of mitigating inadvertent consequences of a half-baked idea.

"If one were to take a pragmatic and reasoned approach in analyzing House Bill 2643, simply put, it was not ready for 'prime time.' PACE is a property tax lien oriented financing that can be used as a tool to improve the economics of energy retrofits where the biggest barrier to their installation is coming up with the upfront cash to make such improvements.

"Unfortunately, PACE is a relatively new program fraught with lots of buzz and attractive sound bites. After all, who doesn't want to promote easy financing for clean energy? Let me make this very clear. There is nothing in statute that prevents each county within Hawaii from instituting a PACE program on their own. House Bill 2643 proposed floating State bonds and establishing a State revolving loan fund to filter funding to the counties for loans for property owners to install clean energy improvements where the loan repayments will be made through special assessments in the collection of property taxes. This is very different from what is happening in mainland cities where municipalities who are directly

responsible for assessing and collecting property tax are adopting the program by floating municipal bonds, not state bonds.

"Friday evening, while the mayors waited for word on the TAT bill, three out of four mayors, and I just didn't run into the fourth mayor, they pulled me aside to thank me for passing this resolution and not moving forward too quickly with the PACE bill. The mayors of each of our four counties were not totally sold on PACE and without buy-in from the counties, PACE simply will not work.

"So I guess the first question to be asked is, why should we move forward on a program that the counties are ambivalent about? As each county faces reduced revenues and budget shortfalls, the creation and administrative cost of a new program is of serious concerns and these issues were not resolved by the time the bill reached Conference stage.

"And Mr. Speaker, you probably have heard that the mortgage lenders are concerned about the priority of liens and rightfully so. This concern is not only being raised by Hawaii lenders alone, but lenders across the country. In a *Wall Street Journal* article, and just let me read this one part to you.

"It said, this debt would be senior to existing debt so if the homeowner defaults or goes into foreclosure it will be repaid before the mortgage lender gets any money. While property tax assessments are usually senior to existing property debt, cities have traditionally used their assessment authority for community-wide improvements like sewers and roads. Not for upgrades that homeowners elect to make on their own homes.

"You know, one of the challenges of PACE is ensuring that the bond rate, the interest rate for assessment and the administrative fees associated with the program are affordable and attractive enough to make the program a success. Currently, mortgage and home equity interest rates are very low and in many cases on the mainland people who initially signed up for PACE dropped out because it was far cheaper for them either to restructure their mortgage, or draw on their home equity.

"In an analysis for the Berkeley PACE program, it was found that property owners who were credit worthy and did not have a problem securing financing, just had to be motivated to make these improvements. Therefore, if PACE cannot compete with traditional financing, there may be a propensity for PACE programs to attract less worthy property owners."

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

Representative Morita continued, stating:

"Thank you, Representative. Well just let me finish up. Mr. Speaker, overzealous proponents of PACE, like the Administration, may feel that this is a serious setback in our advancement for renewable energy and energy efficiency. However, it's not the lack of a PACE program that will put a brake on Hawaii's Clean Energy Initiative, but lack of funding overall to carry out the long-term strategy for energy and food security in Hawaii. It's the Governor's veto of the barrel tax last year, and again yesterday, that gives Hawaii's energy security strategy an uncertain future.

"All of the Energy Division's special funds and stimulus money will be sucked dry by the end of the next fiscal year, and their general funding will be jeopardized like any other program if we fail to fund this Division with a dedicated tax. The reality could be that there won't be anybody to run a PACE program in the next Administration. So for these reasons, I strongly support a cautious approach in adopting this program. Thank you."

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

"Thank you, Mr. Speaker. Again, it's with heavy heart that I have to rise in opposition to this resolution. Because when I experienced the testimony in the Committee, I just couldn't with good heart, with the people and the faces you could see, vote even with reservations on it. And I'd like to at this time just read the testimony of the Sierra Club.

Testimony in opposition to HR47. Chair Morita and Members of the Committee:

The Hawaii Chapter of the Sierra Club opposes HR 47, which requests DBEDT work with "interested parties" and the counties to resolve purported problems with the Property Assessed Clean Energy program.

This resolution conflates questions - that have ready answers - to the level of "problems" seemingly to justify the House's current failure to act on HB 2643. This is a flimsy reed to stand on. By this summer, over 300 counties and one other state will have a fully functional PACE program. The details of these successful programs have been worked out. Hawaii, for a lack of political will, has yet to join them.

This is a little bit of a tale of two cities. The federal government, under Vice President Biden, just announced that 25 communities would be eligible to receive up to \$452 million in Recovery Act funding to establish PACE programs. On the other hand, HR 47 seems to imply our proposed PACE program has problems without giving it a chance to set up.

On the 40th anniversary of Earth Day, wouldn't it be better to advance HB 2643 and attempt to capture some of the federal funds that are available? This act of political courage would not only create new green jobs in Hawaii, but it would also help your constituents save money and move the state towards meeting our renewable energy goals. Thank you for the opportunity to testify. Robert D. Harris, Director.

"Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this. Thank you. I'd like the words of the Chair of the Environmental and Energy Protection Committee entered into the Journal as if they were my own. Thank you.

"I don't think it's doomsday. In fact, I just wanted to educate our colleagues. As you know I'm a proponent of photovoltaic, and I just want you to know that currently, right now in the industry, things are going quite well. In fact, if you can't afford the \$15,000 it costs to buy the system upfront, and then get the \$10,000 in tax credits later, unfortunately a little later than we had expected, there are companies out there that are allowing homeowners to get interest-free loans that'll cover the amount of money that you will then get in tax refunds.

"So although this bill didn't pass, I think out there in the industry and out there in our communities, photovoltaic is being embraced and we should start looking at that area. In addition, Mr. Speaker, I think working with our Chair of Energy and Environmental Protection, we can be assured that the lenders of this State, the banks of this State will look favorably on installation of these types of systems. So although it's going to take us maybe a little bit longer to get this particular initiative passed, I think we should start taking a look at the opportunities that we have now in encouraging our constituents to take a look at this type of energy capture. Thank you."

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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising with reservations on this measure. Thank you. Just so Members know, this isn't a House Concurrent Resolution. It's simply a House Resolution. And according to the Department of Business, Economic Development, and Tourism Director, Ted Liu, it's not necessary. So I'm going with reservations, but it's not necessary and it did use a lot of paper. Sorry about that.

"Director Liu was very articulate before our Committee, and in fact I believe he deserves a tremendous amount of credit from the Legislature and the people of Hawaii for all of his wonderful work in moving this State forward more than any other person with renewable energy. He's been outstanding. I would like Mr. Speaker, to have his testimony inserted in the Journal. I think it is three or four pages.

"The PACE program is going to go ahead, and as Director Liu indicated, this resolution isn't necessary. He's already pulling these groups together. They're working on it to implement the PACE program.

"The big loss is that Hawaii may not be able to tap into the federal money for the program that's being lead by Vice President Biden. I guess it's ARRA funding, and as my colleague from Liliha mentioned, it is \$452 million. Had Hawaii been moving ahead with the bill becoming a law, which of course the Governor would have signed because this was her program, her objective to get this through. If we had moved ahead we would have been able to tap into some of that money, and that would have benefitted all the homeowners in this State that want to get into a PACE program.

"So I think that this is, once again where the Legislature doesn't show vision, doesn't show leadership, but it's happening instead or in spite of us, because it's being lead by Director Liu and by the Governor. Thank you."

Representative Thielen submitted the following testimony:



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT
Thursday, April 22, 2010
9:30 AM
State Capitol, Conference Room 225

in consideration of
HR 47 Proposed HD 1

**REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM TO WORK WITH THE COUNTIES AND OTHER AFFECTED
PARTIES TO RESOLVE THE PROBLEMS WITH THE CLEAN ENERGY
BOND/PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM BILL**

Chair Morita, Vice Chair Coffman, and Members of the Committee

The Department of Business, Economic Development, and Tourism (DBEDT) has concerns with the language of the proposed resolution. We are working with the counties and others to develop the best possible program, so this resolution is not needed. We are also concerned that the actual program and its intent are not accurately described in the resolution.

Had the clean energy bond bills been scheduled through to conference committee it would have been demonstrated that:

1. A collaborative and cooperative effort with the respective counties will be established through the formulation of an Advisory Council on the PACE program. This council will actively address the needs and issues relating to PACE program implementation.

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2. The counties have already been informed that they will receive monetary and structural support to assist in the collection of the PACE assessment lien.
3. The administrative rules will be based on successful programs established in nineteen other states; this will address lenders' concerns.

We would like to take this opportunity to answer the questions presented in HR 47,

Proposed HD1:

- (1) What is the true burden on the counties with respect to administering the program -- for example, without limitation, the upgrading of software, separating the collection of regular real property taxes from loan repayments, and the handling of liens;

Answer: It has been communicated and established with the counties the existence of an operating budget with the PACE program and in conjunction with the PACE program Administrator to assist in the additional software and accounting requirements necessary for successful program implementation. In addition, passing this legislation this year would enable the ability to send stimulus money that will not be available next year.

- (2) What jurisdiction should be responsible for underwriting loans and foreclosing on those loans when property owners default -- county or State

Answer: It has been established that the State will hire an independent PACE program Administrator that will possess the underwriting background to conduct the underwriting process and be actively involved in assisting the counties in the foreclosure process.

- (3) Whether property owners with clean energy loans fully understand that their loan repayments will be in addition to their regular real property taxes and that they should not expect to be shielded from probable real property tax increases in the future

Answer: The establishment of the administrative rules would require disclosures to borrowers by the local government of the risks involved in borrowing, including the risk of foreclosure if a tax delinquency results from a default.

- (4) Whether the interest rates on the loans will be affordable to most homeowners, given that the loan repayments must cover the entire debt service on the bonds plus state and county administrative expenses;

HR47_HD1proposed_BED_04-22-10_EEP.doc Page 2

Answer: The original funding structure of the GO reimbursable bond along with all encompassing administrative fees would have provided a very competitive fixed interest rate for the homeowner. Per White House guidelines at Pacenow.org, principle that cost of paying off measure to be less than the cost of energy avoided.

- (5) What type of government bonds should be issued for the program, given that the bonds changed from general obligation bonds to reimbursable general obligation bonds to revenue bonds through the different committee drafts of H.B. No. 2643

Answer: The original structure of H.B. 2643 had general obligation reimbursable bonds to provide for a less risky, more competitive interest rate to the homeowner. When the funding structure was changed by the Ways and Means Committee to revenue bonds, the retention of the priority lien status became critical for the program viability. General obligation reimbursable bonds would be the preferred structure to provide the best rates.

- (6, 7) Questions:
Whether the interest rate, terms, and conditions of clean energy loans will in actuality be more advantageous than home equity loans to fund renewable energy systems; and

What the effect will be of prioritizing the clean energy loan lien above mortgage liens -- for example, will the subordination of mortgage loans result in higher mortgage interest rates in participating counties;

Answers: A home equity loan is a variable rate, meaning it can rise over time and the spending of the proceeds is solely at the discretion of the owner, meaning that there is no assurance that the consumer will utilize the proceeds for energy saving measures. A home equity loan is not for the public good. In addition, liquidity remains tight at the banks and the banks are not currently providing adequately enough to the energy loan space. The clean energy loan is a fixed competitive rate whereby the proceeds are directly disbursed to qualified contractors for the permanent installation of energy saving equipment. PACE is for the public good. Further, as this loan program is classified as a special tax assessed lien, the effect on a lender is minimized by the fact that PACE loans are not accelerated by the triggering event of default. Anytime an increase in property tax or new assessment is levied on a property with an existing first mortgage, the lenders response is to increase the reserve amount required to be held in escrow to ensure the timely payment of taxes and assessments without the need to adjust the borrowers LTV and qualifying ratios. PACE is classified as an assessment and treated in the same manner.

We believe that the original structure of this legislative measure was conducive to its success in that it was modeled after many successful programs that are currently implemented. It

HR47_HD1proposed_BED_04-22-10_EEP.doc Page 3

was through the political process that the funding structure of the program was materially changed from a General Obligation reimbursable bond to a revenue bond structure by the Ways and Means Committee. This material change made by the legislature prohibited the ability to yield the priority lien position to assist in alleviating the bankers concerns. Despite this fact, the retention of a priority lien position does not impact the lender in the negative format as our research and program implementation has demonstrated. As such the appropriate studies and structures of this program have been reviewed and were originally represented in earlier versions of the H.B. 2643.

We urge the Committee to work to implement the bill as originally proposed, realizing that the window of opportunity for significant Federal support is now.

We appreciate the opportunity to present this testimony.

HR47_HD1proposed_BED_04-22-10_EEP.doc Page 4

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

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

"Thank you, Mr. Speaker. In support. In strong support. I disagree with the arguments by the prior speaker from Kailua. I think if there was anyone with vision and the foresight to push Hawaii toward a renewable future it was our Chairperson of EEP from Kauai. She was personally recognized by the Governor as having the vision.

"And in fact, I think because of her vision we are here today. Unfortunately, it was the current Administration and the Director that put obstacles in the way of her fulfilling some of the things that she wanted to do. Thank you."

Representative Ward rose, stating:

"Mr. Speaker. May I request permission to ask the Chair of EEP to submit to a question?"

At 1:55 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:56 o'clock p.m.

Representative Ward rose to respond, stating:

"Mr. Speaker, I rise for the second time in rebuttal of the last statement. I was just clarifying that the Chair of EEP did say, and in reality there may be no one in the next Administration to administer this program. That was confirmed as the statement that was made.

"I find that shocking. I find that a huge disappointment regardless of whether it's Republican, or Democrat, or Independent. There should be no reason why this program does not go forward. She mentioned a lack of staffing, a lack of funding. Mr. Speaker, this is more important than this little Body, or who's Chair, and who's Speaker. This is an international energy issue which this State has to get the political will. And because of that statement, I think this doesn't pass the 'smell test.' If we don't have the political will to do this, we will never get our kids back in school. We'll never get our economy to turn around.

"This measure, in and of itself is a litmus test to how serious we are to making us a world class, energy self-sufficient place. And if we can stand up as the Chair of EEP and say, 'Well we may not have the will, or the money to have anybody to champion this program in the next year.' I find that disconcerting. So disappointing and discouraging to what must be the case.

"And I know the Representative from Pearl City said, 'Well, the private sector is going to be able to take the place of this upfront money from State bonds. Let's look at the history of 30 years of trying to get people to put solar water heaters on their roof. Tax incentives at the federal level. Tax incentives at the State level. We still only have 25% of the people of Hawaii with solar on their roof.

"Mr. Speaker, this is serious business. I hope we can rise above partisan politics, or blaming Administrations, or blaming people, or blaming parties, or blaming whatever we do, and do the right thing. Mr. Speaker, there's no reason why this Floor, in the next Session, in the next year, whoever is back should not have this as the first priority. Just like ending the furloughs was the first priority in 2010. Thank you, Mr. Speaker."

Representative Morita rose to respond, stating:

"Thank you, Mr. Speaker. Just a brief rebuttal. The real litmus test in supporting the Hawaii Clean Energy Initiative is the barrel tax or carbon tax. Otherwise, we do not have any funding to move forward."

Representative Thielen rose, stating:

"Mr. Speaker, that's not the measure before us. That is not the measure under discussion."

The Chair responded, stating:

"It's related to the discussion on the House Resolution before us now. Representative Morita, please proceed."

Representative Morita continued, stating:

"Thank you, Mr. Speaker. You know right now, as I mentioned earlier, there's nothing that precludes the counties from moving forward with a PACE-like program on the county level. What the bill had proposed is floating State bonds and a State revolving loan fund. Again, DBEDT can work directly with the counties in floating bonds and accessing federal stimulus money to run this program. As I said before, currently, right now, the interest rate on a PACE program may not be competitive with the conventional markets. All of these things have to be looked at.

"But I think what's more important is, again quoting from this *Wall Street Journal* article, that the regulator of Fannie Mae and Freddie Mac, which guarantee half of the nations \$11 trillion in mortgages, has raised concerns in meetings about the program with federal and state officials. And Alfred Pollard, General Counsel for the mortgage companies' regulator, the Federal Housing Finance Agency, said he was worried about the problems that first-in-line loans would create. 'The goal of enhancing energy efficiency which we share, should not overcome the need for prudent underwriting,' he said. Fannie and Freddie are not allowed to speak out on public policy and the company declined to comment for this article.

"PACE advocates have lobbied for a measure barring Fannie and Freddie from taking any adverse action over the next two years on communities participating in PACE. Critics of the program say Fannie and Freddie or mortgage lenders themselves could raise rates in such

communities to cover the risks that a PACE loan will displace payments to mortgage holders. Cities could face legal challenges they say. The State of Maine is considering making energy loans junior to existing debt in legislation that would establish its PACE program. 'The fundamental problem is that there isn't a free lunch, but there often appears to be,' said William K. Black, a professor of Economics and Law at the University of Missouri Kansas City.

"I think what we're saying in this resolution is that there are many unanswered questions. If it's a good idea, then the good idea will survive the smell test right here, and will be a good idea for the next Session. But right now because of these potential problems that are pointed out, especially in this article, we should take a cautious and prudent approach in adopting a statewide program for PACE. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong opposition to H.R. 47 - My concerns are with the language proposed in the resolution. The State is already working with the counties and others to develop the best possible program, so this resolution is not needed. I am also concerned that the actual program and its intent are not accurately described in the resolution.

"I believe that the original structure of this legislative measure, as H.B. 2643, was conducive to its success in that it was modeled after many successful programs that are currently implemented.

"Would it not be better to advance HB2643 and attempt to capture some of the federal funds that are available? The failure to move H.B. 2643 forward through Conference Committee is what many perceive as another good idea fallen victim to party politics. As lawmakers, we should all strive to propel all good ideas. Instead of moving forward with H.R. 47, let us advance H.B. 2643; in doing so we will create new green jobs in Hawaii, help residents save money, and move the state toward meeting our renewable energy goals. Thank you."

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.R. No. 47, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO WORK WITH THE COUNTIES AND OTHER AFFECTED PARTIES TO RESOLVE THE PROBLEMS WITH IMPLEMENTING A CLEAN ENERGY BOND/PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM ESTABLISHED IN THE DRAFTS OF HOUSE BILL NO. 2643," was adopted, with Representatives Ching and Ward voting no.

At 2:03 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:03 o'clock p.m., with the Speaker presiding.

FINAL ADOPTION

Representative B. Oshiro moved that the following House Concurrent Resolutions be adopted, 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

Representative Shimabukuro rose to speak in opposition to the measures, stating:

"Yes, Mr. Speaker. I am in opposition and my comments will apply to all the resolutions, except for the last one on page 6, HCR No. 45. And basically, the first point I wanted to make is that I sent an email out to many of you and it was talking about the issue of the affordability of these homes and how long it lasts. I got some clarification from HHFDC and for the affordable homes listed on these resolutions, there's a 10-year buyback provision.

"The last time we debated these resolutions there was talk of the share appreciation equity. It is a very confusing requirement. The way it works, according to HHFDC is that it's not a barrier to selling your property after 10 years. It just requires that you share part of the profit with the State. So the bottom line is that after 10 years, these homes will be lost in the open market forever.

"The other point I wanted to make is that OHA testified against many of these resolutions, and the gist of their testimony is that the ceded lands inventory is not complete. They haven't completed figuring out what land is ceded and what is not, and that OHA does not have complete confidence in the DLNR's existing system to determine what is ceded and what is not ceded.

"When I talked about these resolutions to several people, I've heard comments like, 'It's only an apartment. It's only a house.' And I think that in this argument, I can see people talk about giving people the chance, and to have the 'American dream' of home ownership and that kind of thing. That is completely why I understand why HHFDC feels that way.

"But I want to tell the Members, try living on the Waianae Coast. In Waianae you cannot drive at all on the highway without seeing thousands of homeless people. Where I work at Legal Aid, I on a daily basis hear stories of people being evicted because they're hard on their luck. They became disabled, or they got laid off, etc. And then there's thousands of hidden homeless. You hear of people, 20 people living in a two-bedroom house. It's very common. And then the thousands of people on the waiting list for Hawaiian homelands, as we all know.

"So when people say it's only an apartment, my response is that that apartment, if it was kept in the land trust, could make a world of difference for a homeless family. The solution I see is I would like to see legislation proposed maybe next Session, somewhere down the line, that we would run HHFDC and some of the other agencies that are in charge of public land like DHHL, and really treat our public lands like a land trust for the benefit of all down the road.

"I really urge everyone to take a serious look at this because if we don't think of it this way, someday the whole State is going to look like the Waianae Coast with our homeless epidemic. So again, please consider carefully these resolutions. Mahalo."

The Chair then announced:

"Members of the House, for your edification, all these measures on pages 4 through 6, require a two-thirds vote. So for those who are opposed, because we need to have this two-thirds vote, please stand on each of these measures so the Clerk can count and determine if we have the two-thirds vote or not.

"This is a voice vote which will be taken at the conclusion of the House Concurrent Resolutions. Is there anyone else who is opposed to these? Please stand on the measures. This is in reference to the legislation that we had adopted last year where we need the two-thirds vote on public land sales.

"These are the 16 House Concurrent Resolutions dealing with the sale of these apartments, lands, etc. in every part of the State."

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

"Thank you Mr. Speaker, in support for all these measures. Again, as I said on the last time we voted on these measures before we sent this over to the Senate, these are apartments, many of which people are purchasing their fee, whether it be that they finally came up with the money, or it's being resold because of foreclosure. These are people's domiciles. There is the person living there. On one parcel, it is going to be where they are going to build affordable housing.

"I understand the concerns of the Representative from Makaha, that there is a homeless problem for us in this State, especially in her district. At the same time, these are resolutions to approve transactions which up until this point, were being administratively done. It is just waiting for our approval.

"The issue of homelessness and housing, is a very difficult both policy and human emotional issue, I don't think it is something that we're going to solve with these resos. That is something for perhaps next Session in developing a policy, whether it be keeping it in the inventory, versus appreciation sharing with the State, or more resources, the lessening of zoning and land use. Whichever it's going to be, I think it better resides there. I am appreciative that we have made, if I may Mr. Speaker, done certain things to address homelessness this Session and hopefully that will help address the speaker from Makaha's concerns.

"Lastly, in regards to OHA's concerns regarding HHFDC's claim that this is not ceded land. My only comment would be, I find that a little interesting being as how that was the system probably that the Administration used in coming up with the settlement that they reached between OHA and the Governor. They agreed that the list was okay, and now they're saying maybe not. So I find that a little odd. Thank you."

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

"Mahalo Ho'omalua 'ōlelo. Ke kū nei au e kūpono 'ole kēia mau kumu e pili ana ke ku'ai 'āina ma ka aoao 'ehā a hiki ka aoao 'eono. A'ohe pono ka mana'o. He ali'i ka 'āina, he kauwa ke kanaka. 'A'ohe 'āina, 'a'ohe po'e. 'O ka 'āina he mea nui no ka po'e kahiko. He aha ka ho'oilina e lave ana no nā hanauna ma hope mākou? E hele akahale kākou ma kēia kumu mai uhauha kēia kumu waiwai. Mahalo."

Representative Hanohano provided the following translation:

Thank you, Mr. Speaker. I rise in opposition to this selling of land issue on page four to page six. This issue is not right. Land is the chief and man in the servant. No land, no people. Land is precious to our ancestors. What is the legacy we are leaving for our future generations to come? We need to move carefully with this issue. Don't waste our resources. Thank you.

The Chair addressed Representative Hanohano, stating:

"Representative Hanohano, you are in opposition to all 16 resolutions? Correct? Thank you."

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

"Thank you, Mr. Speaker. I also rise in opposition to all 16 of these measures. Thank you, and I ask that the words of the Representative from Waianae-Makaha be entered as my own.

"It's probably pointless to say anything about the need to preserve land at this particular moment, but I feel that we do need to pause at least, and recognize that what if these properties were acquired during the time of the monarchy? What if they are ceded lands? What if? We have so many land issues that are unresolved right now, and I just urge our colleagues to be more prudent and be more patient. Thank you."

Representative Awana rose to speak in opposition to the measures, stating:

"Thank you Mr. Speaker, I rise in opposition to all 16 measures as well. And I'd like to adopt the words from the Representative from Makaha as if they were my own. I'd also like to add written comments and share this.

"Ho'omalua 'ōlelo. Make make au ea pono na ho'olelo o kahuna. Maka 'āina na mai Puna, elike mea kou mana'o. Mahalo."

"I'd like to adopt the words from the Representative from Puna as if they were my own. Thank you."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. Mr. Speaker, my *kupuna* reminded me that it is the fiduciary responsibility of government to take care of the land. A thorough inventory of ceded and non-ceded lands has not been completed. In essence, the State can continue to lay claim to a parcel as being non-ceded on the clear fact that the inventory is not complete. The State has failed to complete this inventory and one needs to be done because like my *kupuna*, I too believe that government needs to take care of the land.

"As mentioned earlier by the Chair of Hawaiian Affairs on another measure, many native Hawaiians continue to patiently wait to receive their homestead lease. Unfortunately, some individuals die before their application is approved and to discuss selling land while the vast majority of our host culture goes without is unacceptable. For these reasons, I stand in opposition. Thank you, Mr. Speaker."

Representative C. Lee rose to speak in support of the measures with reservations, stating:

"Thank you, Mr. Speaker. Please note my reservations on House Concurrent Resolution No. 21 through 45, as found on pages 4 through 6."

Representative Souki rose to speak in support of the measures, stating:

"Yes, Mr. Speaker. I wish to speak in favor, however I need to explain that I have in the past said that I'm in opposition to the sale of State land. Basically I wanted for this to come to the Legislature for approval. And it's coming to this Body for its approval, so I'm in concert with that. Thank you."

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

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

"Thank you, Mr. Speaker. Just very brief comments in support of all of these resos. Mr. Speaker, I do apologize to the Members of this Body. I have been working with the Office of Hawaiian Affairs, as well as HHFDC and I'm proud to announce that I actually have had wonderful resolution. I spoke with Clyde Namu'o the other day, as well as Chair Haunani Apoliona regarding the resolutions and they made very clear that they felt comfortable based on a chart we had provided to them with respect to HCR No. 21, all the way through HCR No. 36 showing the origin of the lands, the date of acquisition, particularly with respect to the HHFDC parcels. And they did acknowledge that none of these were ceded lands.

"One other thing I'd like to note in response to a comment made from the Representative from Makaha. Act 176 does not require ceded land status, and so in the future, if this Body chooses to include that, we can certainly do so. But the fact that these resolutions do not contain that information is not a requirement. However, to ensure and placate the Office of Hawaiian Affairs, I did in fact provide to them this chart. I'm happy to announce that I do have a message and I can play it for the Members of this Body, from Mr. Namu'o basically stating that they were fine with all the resolutions in their amended form. They were happy with the fact that the Senate did in

fact amend them to include more information, particularly with respect to the requirements in Act 176. Thank you, Mr. Speaker."

Representative Saiki rose to speak in opposition to the measures, stating:

"Mr. Speaker, a no vote on all resolutions. I'd also like to note that Act 176 requires the Legislature to consider two factors in particular in these resolutions. The first is the purpose for which the land is being sold or given. The second is a detailed summary of any development plans for the land to be sold or given.

"The Makaha Representative should be commended for discussing these factors in her Floor speech today. Her analysis is germane to whether or not these transactions further housing policy in our State. Thank you, very much."

Representative C. Lee rose to speak in opposition to the measures, stating:

"Mr. Speaker, please note on page 6, just for House Concurrent Resolutions Nos. 33 and 36, I'd like no votes."

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

"I just wanted to note my reservations for HCR No. 33 only."

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

"I'm sorry, Mr. Speaker. On HCR No. 33, SD 1, please note my reservations for the sole fact that there was a miscommunication between the DHHL, as well as HHFDC. I want it clearly noted in the record that the master development plan for Kapolei noted that this particular parcel was zoned residential and therefore could not be a park.

"Unfortunately, there was miscommunication between DHHL to the homesteaders in my district. As a result, some of the homesteaders are a bit upset about that. I've tried to explain to them that the issue really is not with us, but it's with DHHL. But in this case unfortunately, when HHFDC did present this resolution, they did tell two members of DHHL who failed to tell the homesteaders, and the homesteaders are a bit upset about this. So in any event, because of the lack of communication, I'll be voting with reservations. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.C.R. No. 21, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 1593 PAPA STREET, KAPAA, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 22, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 1951 PAHOEHOE STREET, KOLOA, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 23, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 1098 ONAHA STREET, WAILUKU, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 24, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 1051 ONAHA STREET, WAILUKU, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 25, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 91-1139 KAMAHA LOOP, KAPOLEI, HAWAII," was Adopted, with Representatives Awana,

Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 26, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF 91-1072 WELOWELO STREET, KAPOLEI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 27, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE FEE INTEREST IN 95-033 KUAHELANI AVENUE, MILILANI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 28, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE FEE INTEREST IN 94-940 MEHEULA PARKWAY, MILILANI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 29, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE FEE INTEREST IN 95-029 KUAHELANI AVENUE, MILILANI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 30, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE FEE INTEREST IN 95-021 KUAHELANI AVENUE, MILILANI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 31, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE FEE INTEREST IN 2949 ALA ILIMA STREET #201, HONOLULU, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 32, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF THE NORTHWEST CORNER PARCEL, KAPOLEI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 33, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF A 9.105 ACRE VACANT PARCEL IN VILLAGE 8, THE VILLAGES OF KAPOLEI, KAPOLEI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, C. Lee, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 34, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF KEKUILANI VILLAGE 4, THE VILLAGES OF KAPOLEI, KAPOLEI, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 36, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE FEE SIMPLE SALE OF TWO VACANT PARCELS IN HOKULELE, KANEHOE, HAWAII," was Adopted, with Representatives Awana, Berg, Hanohano, C. Lee, Saiki and Shimabukuro voting no, and with Representative Wooley being excused; and

H.C.R. No. 45, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE SALE OF STATE RECLAIMED LANDS AT KANEHOE, KOOLAUPOKO, OAHU," was Adopted, with Representatives Awana, Berg, Hanohano and Saiki voting no, and with Representative Wooley being excused.

H.C.R. No. 51, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.C.R. No. 51, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION DECLARING THE SECOND WEEK IN OCTOBER AS CASE MANAGEMENT WEEK," was Adopted, with Representative Wooley being excused.

H.C.R. No. 62, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.C.R. No. 62, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING CAREGIVERS AND RECOGNIZING THEIR ROLE IN MAINTAINING THE HEALTH AND WELL-BEING OF HAWAII'S FRAIL AND VULNERABLE POPULATION," was Adopted, with Representative Wooley being excused.

H.C.R. No. 68, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.C.R. No. 68, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING THE FIRST DAY OF DECEMBER OF EVERY YEAR AS WORLD AIDS DAY IN THE STATE OF HAWAII," was Adopted, with Representative Wooley being excused.

H.C.R. No. 212, SD 1:

Representative B. Oshiro moved that H.C.R. No. 212, SD 1, be Adopted, seconded by Representative Evans.

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of H.C.R. 212. As founder of the Heritage Caucus, I support and encourage the preservation of State and local landmarks by providing opportunities for students and residents to learn the history of the State. By placing a plaque commemorating and remembering the 100th anniversary of the Korean National Association, we are teaching our future generations about the unique cultural history of Hawaii.

"In the placement of this plaque on the premises of Washington Place, where the previous headquarters of the Korean National Association once stood, I recommend and encourage that those involved in the creation and implementation work with the Hawaii Capitol Cultural District. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 212, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING GOVERNOR LINDA LINGLE TO RECOGNIZE LOCAL KOREANS BY ALLOWING A COMMEMORATIVE PLAQUE DESIGNATING THE FORMER SITE OF THE KOREAN NATIONAL ASSOCIATION," was Adopted, with Representative Wooley being excused.

SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to a certain House Bill. (Representative Wooley was excused.)

RECONSIDERATION OF ACTION TAKEN

Representative B. Oshiro moved that the House reconsider its action previously taken in disagreeing to the amendments made by the Senate, and give notice of intent to agree to such amendments for the following House Bill, seconded by Representative Evans:

H.B. No. 921, HD 1, (SD 2)

The motion was put to vote by the Chair and carried, and the House reconsidered its action previously taken in disagreeing to the amendments made by the Senate, and gave notice of intent to agree to such amendments for the noted House Bill. (Representative Wooley was excused.)

ANNOUNCEMENTS

Representative Ching: "Thank you. Very quickly. Because we're nearing 50 years of the State Capitol, I did want to announce that the gentleman who actually designed the State Capitol recently passed away.

"John Warnecke, the architect who helped build the Hawaii State Capitol, who was very good friends with President John and Jackie Kennedy, and who also designed the Eternal Flame that burns in Washington DC there at the tomb of the unknown soldier where John F. Kennedy is buried, passed away. His firm, along with Belt, Lemmon, & Lowe designed this State Capitol with its symbolism to reflect the uniqueness of the islands, extensive open space, and always to convey a sense of open government.

"The Capitol is a beautiful building, an icon in Hawaii,' said Mr. Price, a prominent architect. And in Hawaii he specifically also designed this State Capitol to blend in with our brother next door, the 19th century Iolani Palace. And his motto was that to keep things simple. Thank you."

ADJOURNMENT

At 2:23 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 10:00 o'clock a.m. tomorrow, Thursday, April 29, 2010. (Representatives Chang, Manahan and Nishimoto were excused.)

HOUSE COMMUNICATIONS

House Communication dated April 28, 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 reconsidered its action taken in disagreeing to the amendments made by the Senate on April 7, 2010, and gives notice of intent to agree to the following House Bill:

H.B. No. 921, HD 1, SD 2

House Communication dated April 28, 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. 1015, HD 1, SD 2, CD 1
H.B. No. 2377, HD 3, SD 2, CD 1
H.B. No. 2774, HD 2, SD 2, CD 1
S.B. No. 2124, SD 2, HD 1, CD 1
S.B. No. 2469, SD 2, HD 2, CD 1
S.B. No. 2589, SD 2, HD 1, CD 1

House Communication dated April 28, 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 adopted 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