

## TWENTY-SIXTH DAY

Tuesday, March 8, 2011

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2011, convened at 9:13 o'clock a.m., with the Speaker presiding, 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 Twenty-Fifth Day was deferred.

## GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 175 through 182) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 175, dated January 18, 2011, transmitting the Annual Report of the Crime Victim Compensation Commission, prepared by the Department of Public Safety pursuant to Section 351-70, HRS.

Gov. Msg. No. 176, dated February 10, 2011, transmitting the Annual Report on Forensic Patient Data, Specific to the Hawaii State Hospital, prepared by the Department of Health pursuant to Section 334-16, HRS.

Gov. Msg. No. 177, dated February 10, 2011, transmitting the Report on Department of Health Transfers to the Department of Human Services for the Care and Treatment of Patients, pursuant to Section 120, Part VIII of Act 180, SLH 2010; and the Report on Department of Human Service Agreements with the Department of Health to Furnish Outpatient, Hospital, and Nursing Home Care for Indigents or Medical Indigents, pursuant to Section 121, Part VIII of Act 162, SLH 2010, prepared by the Department of Health.

Gov. Msg. No. 178, dated February 10, 2011, transmitting the Annual Report on the Mental Health and Substance Abuse Special Fund, prepared by the Department of Health pursuant to Section 334-15, HRS.

Gov. Msg. No. 179, dated February 10, 2011, transmitting the Report on the Expenditure of All Funds for the Comprehensive Breast and Cervical Cancer Control Program, prepared by the Department of Human Services and the Department of Health pursuant to Act 52, Section 4, SLH 2008.

Gov. Msg. No. 180, dated February 10, 2011, transmitting the State Council on Mental Health's Annual Report on Implementation of the State Plan, prepared by the Department of Health pursuant to Section 334-10(E), HRS.

Gov. Msg. No. 181, dated February 17, 2011, transmitting the Spouse and Child Abuse Special Account Report, prepared by the Department of Human Services pursuant to Section 346-7.5, HRS.

Gov. Msg. No. 182, dated February 17, 2011, transmitting a Report on Services for Adults with Special Needs, prepared by the Department of Human Services pursuant to H.C.R. No. 256 (2010).

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 46 and 47) were received and announced by the Clerk:

Sen. Com. No. 46, transmitting S.B. No. 1292, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS," which passed Third Reading in the Senate on March 4, 2011.

Sen. Com. No. 47, transmitting S.B. No. 1293, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE

DEPARTMENT OF HUMAN SERVICES," which passed Third Reading in the Senate on March 4, 2011.

On motion by Representative Evans, seconded by Representative Pine and carried, the following Senate Bills passed First Reading by title and further action was deferred:

S.B. No. 1292

S.B. No. 1293

## DEPARTMENTAL COMMUNICATIONS

The following departmental communication (Dept. Com. No. 66) was received by the Clerk and was placed on file:

Dept. Com. No. 66, dated March 4, 2011, from Frederick D. Pablo, Director of Taxation, Department of Taxation, transmitting their findings, conclusions and recommendations in regards to the Legislature's and Auditor's concerns in 2010 over the Department of Taxation's contract with CGI Technologies and Solutions, Inc (CGI) to provide technical expertise to the department.

## ORDER OF THE DAY

Representative B. Oshiro moved that notwithstanding the inadvertent placement of a March 8, 2011 date on various Committee Reports numbered 691 to 875, that the error be corrected to reflect the actual March 4, 2011 filing date, seconded by Representative Evans.

The Chair then stated:

"Members, this is to correct the technical error in the date on Stand. Com. Rep. Nos. 691 to 875. This motion will correct that date."

The motion was put to vote by the Chair and carried, and the error was corrected to reflect the actual March 4, 2011 filing date.

## 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 for Third Reading by consent calendar.

## CONSENT CALENDAR

The Chair then announced:

"Members, at this time we are on the Consent Calendar and there will be no discussion on these measures as was agreed upon."

At 9:17 o'clock a.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:18 o'clock a.m.

## UNFINISHED BUSINESS

Representative Aquino, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 641) recommending that H.B. No. 1067, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1067, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

TRANSFER OF YOUTH TO AN ADULT CORRECTIONAL FACILITY," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 642) recommending that H.B. No. 1053, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1053, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL DENTAL HYGIENE EXAMINATIONS," passed Third Reading by a vote of 51 ayes.

Representatives Herkes and Keith-Agaran, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 645) recommending that H.B. No. 904, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 904, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 648) recommending that H.B. No. 1098, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1098, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 649) recommending that H.B. No. 616, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 616, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD CUSTODY," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 650) recommending that H.B. No. 597, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 597, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 651) recommending that H.B. No. 238, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 238, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 652) recommending that H.B. No. 1093, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1093, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 653) recommending that H.B. No. 1094, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1094, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 695) recommending that H.B. No. 594, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 594, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 697) recommending that H.B. No. 453, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 453, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. HB 453, H.D. 1 will address a gap in the currently laudable law requiring the various counties to establish or protect access to the shorelines when processing subdivision applications. This measure will ensure that the public receives more than a "paper" access—that a route to our beaches will be maintained into the future.

"This bill clarifies that where a county requires public access as a condition of a subdivision, either the county must accept the dedication of the access or make sure the access will be maintained after the developer has sold its project and moved on. The county will have the option to require the subdivider to establish, and initially fund, a stewardship fund to be controlled by the county for improvement and maintenance of the right-of-way, or the county may require the subdivider or the planned community association to improve and maintain the right-of-way. This is not unusual. A stewardship fund is what a Land Trust negotiates with landowners proposing to create a conservation easement.

"This bill makes our public access law operate in a fashion which actually provides a useful and usable route to the shorelines which serve as prime places for recreation, spiritual renewal, and sustenance for our fulltime residents."

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure was not referred to the Committee of Hawaiian Affairs and the title is, Relating to Public Access."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 453, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 698) recommending that H.B. No. 1005, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1005, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 699) recommending that H.B. No. 1064, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1064, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE ACT COURT PROCEEDINGS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 701) recommending that H.B. No. 1070, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1070, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONDITIONAL RELEASE TIMEFRAMES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 703) recommending that H.B. No. 1333, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1333, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL CLAIMS COURT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 704) recommending that H.B. No. 1368, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1368, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 705) recommending that H.B. No. 931, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 931, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 706) recommending that H.B. No. 1139, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1139, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 707) recommending that H.B. No. 1613, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1613, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I rise in strong support of this bill. The purpose of this measure is to implement permanent absentee voting. As use of absentee balloting grows, we should support methods that encourage voter turnout and fosters easier access to the ballot box by our dedicated and regular voters.

"I note that permanent absentee voting has been efficient and beneficial in a number of other states. Given the low voter turnout in our State, absentee and permanent absentee ballot applications would be beneficial.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1613, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 710) recommending that H.B. No. 980, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 980, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 714) recommending that H.B. No. 758, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 758, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND DIVISION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 715) recommending that H.B. No. 290, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 290, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"Mr. Speaker, I speak in support of HB 290.

"This bill supports the operations of the Department of Agriculture (DOA) and helps mitigate the negative effects by its reduction in force. Among other things, the bill would allow DOA to enter into agreements with government and private agencies to hire and pay temporary inspectors to perform certification and audit services. In addition it would establish new or increase certain existing fees to cover the operation and maintenance costs of agriculture inspection and certification programs.

"Hawaii has been severely impacted by the decrease in services by plant and commodity inspectors. Although many of these tasks involved fees, there was also subsidization of associated costs from the general fund. Industry stakeholders recognize the dire state of the State budget, and have testified to their willingness to evolve to a true fee for services structure to ensure the necessary certifications and inspections for their crops. This bill provides the means to move in this direction.

"The ability to move products in and out of the State, as well as interisland is critical to the vitality of the State's agriculture industry and its overall economy. HB 290 is a vehicle for DOA to provide its necessary services that are required in that regard and I am in strong support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 290, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 716) recommending that H.B. No. 424, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 424, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure extends the temporary exemption from the State's environmental impact statement law afforded to certain proposed actions involving infrastructure within an existing public right-of-way. This measure was not referred to the Committee of Hawaiian Affairs. Environmental Impact Statements include cultural assessment which has an impact on Native Hawaiian rights."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 424, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 719) recommending that H.B. No. 1570, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1570, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"Mr. Speaker, I am in support of this measure. The purpose of this bill is to assist livestock farmers remain financially viable by assisting with ever increasing feed costs through the Livestock Revitalization Program and by expanding the scope of eligible farmers to include goat herds producing milk.

"HB 1570 is a way to provide the people of Hawaii with fresh, locally-produced livestock products. In addition, livestock farms provide a potentially valuable vehicle to expand agricultural tourism ventures for our State.

"Mr. Speaker, in your Agriculture Committee we heard testimonies from poultry producers of how a similar bill we passed in 2007 helped them survive and succeed. That subsidy was a tremendous aid enabling one business to afford its weekly feed purchases and gave the opportunity to invest in equipment to improve operations and to continue farming. Another stated, "I know first-hand it has saved a number of family farms from going out of business. I know they are still struggling." Their testimonies also mentioned a collective concern for the future of Hawaii's livestock operations. In 1999 there were 14 dairy farms, 17 poultry operations and numerous hog farms across the islands. Today there is one dairy, 4 poultry farms and a handful of hog farms in the State.

"Mr. Speaker, if locally produced food is in fact a desirable goal for the state, then we need to be advocates for the livestock industry. This Body's support of HB 1570 would demonstrate our continuing commitment to the viability of this agricultural sector."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1570, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 722) recommending that H.B. No. 596, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 596, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 731) recommending that H.B. No. 855, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 855, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PACIFIC POWER AND WATER COMPANY, INC., IN THE DEVELOPMENT OF HYDROPOWER FACILITIES IN HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 732) recommending that H.B. No. 1286, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1286, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST BIOENERGY HAWAII, LLC," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 733) recommending that H.B. No. 927, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 927, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Pine's written remarks in support of the measure are as follows:

"I strongly support HB927 HD1, Relating to Roadway Materials for the following reasons:

"HB927 HD1 clarifies that State agencies may purchase roadway materials with minimum recycled glass content and allows for the use of minimum glass of ten per cent crushed glass aggregate in all basecourse and subbase asphalt.

"During the hearing process, all testifiers were in support of the measure in both the Committee on Energy and Environmental Protection and the Committee on Finance.

"As a freshman legislator in 2005, I sponsored a bill, HB1491, which required the Department of Transportation to use recycled materials in their projects, where cost effective. This reinforced the continuing commitment Hawaii should take in considering the use of recycled materials in our State highway and City road projects.

"The current measure before this Body, HB927 HD1, asks for clarity in the type of materials used in the production of recycled asphalt. The measure I introduced during the 2005 Legislative Session "required" the Department of Transportation to use recycled materials in their projects. This request has come full circle as we are now giving State agencies the "option" of using one, out of a number of recycled materials, to be used in asphalt to repave our highways and roads.

"Back in 2005, The Department of Transportation testified that they supported the intent of the bill, but said that it was already in the process of "considering" the use of recycled materials in its projects. The Department of Transportation, over the course of the last six years, has instituted the use of a variety of recycled materials which is beneficial to everyone who drives on our highways and roads.

"Passage of this measure will allow for the improvement of Hawaii's roads, enable more cost-effective recycling of asphalt pavements and reduce Hawaii's overall greenhouse gas emissions.

"I thank my fellow colleagues for reviving a measure similar to the bill I introduced which recognizes the importance of using recycled materials in our State and City roadways.

"For all these reasons I strongly support HB927 HD1, Relating to Roadway Materials."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 927, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ROADWAY MATERIALS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 734) recommending that H.B. No. 1017, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1017, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BIOFUELS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 738) recommending that H.B. No. 1568, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1568, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"Mr. Speaker, I am in support of HB 1568. This bill protects Hawaii's natural environment from the threat of invasive species and assists Hawaii's agricultural industry. It would establish biosecurity and inspection facilities at major State airports and harbors to strengthen and support Hawaii's agricultural industry and protect Hawaii's environment from invasive species.

"In Governor Abercrombie's *A New Day in Hawaii* publication, he stressed "A strong economy is not one based on unfettered consumption of our natural resources, but instead one that is sustainable over time." One of the bullet points that followed was to "Improve prevention, management, and response system for invasive species."

"DOA developed a multi-faceted Biosecurity Plan to enhance its invasive species prevention efforts at air and sea ports with more inspectors, more efficient and effective inspection services, improved inspection facilities, and agreements with importers and producers for improved sanitary protocols before items are shipped to Hawai'i. Having proper, enclosed inspection and quarantine facilities at all major air and sea ports, similar to the one at Kahului airport, is one of the most important components of this Plan.

"Evidence shows that *preventing* a new pest establishment is much more economical than eradicating a pest or, even worse, controlling it indefinitely once it is established.

"The Legislature's history of supporting this Biosecurity Plan has been essential to its implementation, and supporting the Department of Agriculture with proper facilities at all of the State's major ports of entry is one of the most critical things that can be done to help prevent new pests from entering our State.

"The current version of HB1568 would have the Aloha Tower Development Corporation provide space, planning and design support at the Aloha Tower Complex for biosecurity and inspection facilities intended to meet the various needs of Hawaii's agricultural industry.

"It would also require DOT to provide space and infrastructure for biosecurity and inspection facilities at Hawaii's airports to facilitate the safe movement of incoming and outgoing air cargo through the airports rather than providing it to DOA for the same purposes.

"Mr. Speaker, the State has already seen the negative effects of having less ag inspectors defending our ports of entry. We cannot further risk the future of Hawaii's agriculture by letting our guards down against invasive species. Colleagues please join me in support of HB 1568."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1568, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 744) recommending that H.B. No. 823, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 823, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC FINES AND FEES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 745) recommending that H.B. No. 916, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 916, entitled: "A BILL FOR AN ACT RELATING TO FUNDING FOR PARKING FOR DISABLED PERSONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 746) recommending that H.B. No. 775, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 775, entitled: "A BILL FOR AN ACT RELATING TO THE PHOTO ENFORCEMENT REVOLVING FUND," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 748) recommending that H.B. No. 1322, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1322, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CERTAIN FUNDS OF THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 749) recommending that H.B. No. 1327, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1327, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 751) recommending that H.B. No. 1603, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1603, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 754) recommending that H.B. No. 773, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried the report of the Committee was adopted and H.B. No. 773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR SAINT LOUIS SCHOOL," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 755) recommending that H.B. No. 1055, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1055, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 757) recommending that H.B. No. 1313, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1313, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST WINDWARD NAZARENE ACADEMY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 759) recommending that H.B. No. 908, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 908, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 760) recommending that H.B. No. 830, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 830, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOAN FUNDS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 761) recommending that H.B. No. 1323, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1323, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 764) recommending that H.B. No. 461, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 461, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Takai's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support. Mr. Speaker, HB4 61 proposes to implement voting provisions for uniformed services and overseas absentee voters, as required by the Military and Overseas Voter Empowerment Act.

Voting is a basic right of every eligible American citizen. It is a foundation of our country's democratic principles.

"The procedures proposed in this bill would ensure that Hawaii residents serving in the military outside of Hawaii are guaranteed voting privileges in state and national elections.

"Our 400 retired and currently serving officers of the Uniformed Services support codification of the federal law related to Military and Overseas voters.

"Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, despite repeated congressional and state efforts to facilitate their ability to vote.

"These include difficulty in registering abroad, frequent address changes, slow mail delivery, ballots and ballot applications that never arrive, difficulty in obtaining information about candidates or issues, the inability to comply with notarization or verification procedures, or the voter's failure to properly comply with non-essential requirements for absentee materials.

"Since Hawaii, among all the other states, has our primary election the closest to our general election, we ran up against the federal mandate to allow 45 days for return of ballots from these voters.

"In fact in the most recent analysis of overseas voting by the Pew Center on the States, Hawaii did a fairly good job of getting ballots out and back, in spite of the shorter time period. Now is the opportunity to make the situation permanent.

"Moving the primary election back will help, but other factors need to be put into place to allow the Chief Elections Officer the authority to act prudently. I believe this bill does that. 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. 461, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 766) recommending that H.B. No. 492, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 492, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Aquino's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I rise in support of H.B. 492. This measure looks to address deficiencies in the Department of Public Safety's Sheriffs Division as noted in the State Auditor's June 2010 report. I understand that the Division's scope of responsibility has grown throughout the years. The enactment of this bill would ensure public safety by improving current organizational issues, perform risk assessments for each area of the Division, and draft and implement a strategic plan. With the Sheriff's Division in charge of protecting State buildings and courts, providing security and protection of our airports among many other things, this bill is a step in the right direction. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 492, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 767) recommending that H.B. No. 605, HD 1, as amended in HD 2, pass Third Reading.

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

605, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 768) recommending that H.B. No. 1000, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1000, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED 911 SERVICES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 769) recommending that H.B. No. 1088, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1088, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Aquino's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I speak in favor of H.B. 1088 which looks to give the Department of Public Safety the authority to render aid to inmates or detainees who refuse treatment. This Administration bill would give the Department's medical staff the ability to treat those who may be a danger to others and/or to themselves. This bill would also assist in cost savings. Currently, those who refuse treatment may be transported to the Hawaii State Hospital where treatment costs are much higher. This measure would allow medical professionals within the correctional system to provide needed care on the spot."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1088, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 770) recommending that H.B. No. 491, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 491, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Aquino's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. In support. This bill would require the Department of Public Safety to prepare, apply, and obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies. From what I gathered, this is a prominent accreditation. While there may be some concern on when this can be done, the intent is to address the Auditor's concerns in her June 2010 report while positioning our Sheriff's Division to be a better organization. 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. 491, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 771) recommending that H.B. No. 1109, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1109, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Takai's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I rise in support of this measure. Currently, employees are entitled to a total of four weeks of family leave during any calendar year upon the birth of a child of the employee, the adoption of a child, or to care for the employee's child, spouse or reciprocal beneficiary, or parent with a serious health condition. The care of employees whose family member is in the military is not covered.

"Hawaii has a rich tradition of cooperation and support of our service members. To extend the ability to take family leave to take care of activities necessitated by a family member who is proudly serving in the defense of one's country is the right thing to do.

"Eligible employees who take the leave under this measure are likely to be those not already covered under the Family and Medical Leave Act Military Family Leave Entitlements.

"These are likely to be employees of companies with 100 or more employees who have worked only six months for the company, or are reciprocal beneficiaries or grandparents-in-law of eligible service members.

"This measure will also allow all eligible employees of more 100 or more employees to take up to ten sick days for this type of leave where in the federal environment the employer can determine if sick leave will be used.

"Servicemen and women honor their families, nation and state under the American flag. I firmly believe those who employ their family members should not hesitate to ensure they can be with their uniformed loved ones on the occasions described in this Bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1109, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 776) recommending that H.B. No. 169, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 169, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 777) recommending that H.B. No. 174, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 174, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 778) recommending that H.B. No. 175, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 175, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 780) recommending that H.B. No. 527, HD 1, as amended in HD 2, pass Third Reading.

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

527, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 781) recommending that H.B. No. 587, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 587, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 782) recommending that H.B. No. 1036, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1036, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION REQUIREMENTS FOR THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 783) recommending that H.B. No. 1076, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1076, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 786) recommending that H.B. No. 960, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 960, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla's written remarks in support of the measure are as follows:

"Mr. Speaker, I am in strong support of HB 960 HD1. The Department of Business, Economic Development and Tourism, Hawaii Housing Finance and Development Corporation says it very succinctly:

"The low-income housing tax credit (LIHTC) program is a major financing tool to construct or rehabilitate affordable rental housing for families at or below 60 percent of the area median income. Under the program, HHFDC awards federal and State tax credits that may be used to obtain a dollar-for-dollar offset (tax credit) in income tax liability for 10 years or may be syndicated to generate substantial project equity. There are two types of federal tax credits: 1) 9% competitive tax credits, which are applied against the State of Hawaii's annual LIHTC volume cap allocation; and, 2) 4% noncompetitive tax credits, which are awarded outside of the federal tax credit volume cap with tax-exempt bond financing. Approximately \$2.719 million in federal and \$1.359 million in state volume credit tax credits may be awarded each year.

"Many LIHTC projects have been stalled during the recession due to the lack of available private investors who are willing to purchase these tax credits, or due to the fact that the equity generated by the sale of State tax credits is not sufficient to fund project development.

"The tax credit exchange program proposed in H.B. 960 would allow eligible affordable rental housing developers to trade in both competitive, State volume cap LIHTCs and non-volume cap LIHTCs for a loan. The loan amount would be equivalent to 70 percent of the State LIHTC award over the ten year period. The exchange of the State LIHTC could provide nearly three times more equity for the development or rehabilitation of affordable rental housing projects compared to the existing credit program. The State LIHTC loan mechanism proposed in this bill is similar to the

Section 1602 provisions in the American Recovery and Reinvestment Act of 2009, which assists projects receiving competitive Federal volume cap LIHTCs. As the State of Hawaii's LIHTC issuing agency, HHFDC supports the creation of a loan option for the State credit to provide affordable housing developers with sufficient equity to finance construction of much-needed rental projects.

"Mr. Speaker, thank you for the opportunity to offer comments."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 960, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOW-INCOME HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 787) recommending that H.B. No. 898, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 898, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla's written remarks in support of the measure are as follows:

"Mr. Speaker, I am in strong support of HB 898 HD2. This bill extends the lapse date for "Housing First" funds to December 31, 2011. "Housing First" programs fund housing for the chronically homeless. The cost to Hawaii for homelessness is quite high, particularly for the chronically homeless and mentally ill. Because they have no regular place to stay, people who are homeless use a variety of public systems in an inefficient and costly manner. Preventing a homeless episode or ensuring a speedy transition into stable permanent housing can result in more positive outcomes and significant cost savings.

"38% of all public costs for those who are unsheltered are healthcare costs. A study of hospital admissions of homeless people in Hawaii revealed that 1,751 adults were responsible for 564 hospitalizations and \$4 million in admission costs. Their rate of psychiatric hospitalization was over 100 times their non-homeless cohort. It is estimated that the excess cost for treating these homeless individuals was \$3.5 million or about \$2,000 per person.

"These exorbitant costs affect all Hawaii taxpayers.

"Until our economy improves, adequate affordable housing will not be available. We will therefore continue to need to provide housing for the chronically homeless.

"Mr. Speaker, thank you for the opportunity to offer comments."

Representative Nakashima's written remarks in support of the measure are as follows:

"This bill would extend the lapse date of funds appropriated from the Emergency and Budget Reserve Fund pursuant to Act 191, SLH 2010, for the Housing First Pilot Program to December 31, 2012. This is necessary because this program which has been very successful on the mainland was not given an opportunity as the last administration did not release this money for use.

"The Housing First model has been very successful on the Mainland. It has a good track record in assisting homeless people find access to permanent housing and then aid them in providing the services they need to keep them in housing while providing successful transition off the streets."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 898, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING POLICY," passed Third Reading by a vote of 51 ayes.



Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 793) recommending that H.B. No. 1384, HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1384, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION MEDICATIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 794) recommending that H.B. No. 889, HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 889, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 795) recommending that H.B. No. 326, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 326, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 796) recommending that H.B. No. 1201, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1201, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH BENEFIT EXCHANGE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 797) recommending that H.B. No. 561, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 561, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 800) recommending that H.B. No. 667, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 667, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD SAFETY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 802) recommending that H.B. No. 1342, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1342, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Nakashima's written remarks in support of the measure are as follows:

"Mr. Speaker, House Bill 1342 seeks to exempt broadband infrastructure improvements from State or county permitting requirements for five years. This will allow county efforts to meet Federal Communication Commission "narrow banding" mandates requiring first responders to all be on the same band width by 2013.

"This legislation would also allow for developing broadband infrastructure leading to economic development and educational opportunities in rural communities. For those of you who know the inconveniences of dropped calls and lost signals, imagine travelling through large tracts of land where there was just no signal at all. This is a reality in many rural communities."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1342, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 803) recommending that H.B. No. 318, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 318, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"Mr. Speaker, I speak in support of HB 318. This Bill creates an interagency task force to recommend actions relating to vog.

"Vog is an ongoing concern on the Big Island which periodically affects the other islands also. Farmers and ranchers have experienced various levels of losses, including death of plants and livestock, and degradation of infrastructure. It is incumbent upon us to provide any assistance possible to those affected by vog."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 318, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VOG," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 806) recommending that H.B. No. 1008, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1008, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Aquino's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support of House Bill 1008. This bill would allow certain federal law enforcement agencies to assist State and local law enforcement in making arrests. This measure provides another security and safety tool for law enforcement agencies as we prepare for the Asia Pacific Economic Cooperation (APEC) in November of this year. This is a good bill that strengthens collaboration and resources needed for this very important event for our State. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1008, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE POWER OF ARREST," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 808) recommending that H.B. No. 49, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 49, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Takai's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I rise in strong support of this measure. The intent of this measure is to simply recognize in State statute the approach that Service members under Title 10 USC Section 1482 are required by federal law to follow in designating a Person Authorized to Direct Disposition (of human remains), or PADD.

"This bill will ensure that the DD Form 93 is consulted and viewed as the legally sufficient document for designating a PADD.

"The DD Form 93 is an essential part of their military record, also designating their beneficiaries for Service Members' Group Life Insurance. Service members are required to update it annually and before any deployment.

"Forty-eight percent of Service members are less than 25 years old. Since they are required to designate a PADD on the DD Form 93, it is highly unlikely they will research to see whether they also need to follow a different state requirement for designating an agent in the event of their untimely death.

"The proposed amendment to State law on disposition removes confusion for the family. Allow me to illustrate a potential issue by sharing a case with you that shows what can happen when there is a lack of clarity in which rule to follow when designating a PADD:

*A deceased Soldier who was married but estranged from his wife, elected his mother as the PADD on DD Form 93. The mother wanted to cremate the Soldier; however, the funeral home refused to cremate the remains without the wife's consent (based on the rules of the state).*

*The spouse was reluctant to sign the consent for cremation and only after a military attorney intervened, did the wife eventually consent.*

*Eventually the wishes of the Service member to have his mother direct disposition were honored; however, this situation, and the unnecessary delay it caused, could have been avoided if the state statute in question had referred to the DD Form 93.*

"This bill will also enable coroners to confidently refer to a single document to approach the Service Member's choice for directing the disposition of his or her remains.

"Additionally, HB 49 will avoid the possibility of giving the body to a person not listed on DD Form 93 against the Service Member's wishes and a person who may be ineligible to receive Department of Defense funds for burial.

"In addition, having DD Form 93 in statute will make estate planners aware of its important use by the federal government. If they were to help a Service Member create a durable power of attorney or a will, they could align both the DD Form 93 and their paperwork so that there are no conflicts, thus better serving their client. If a Service Member wanted to update their DD Form 93 based on the advice of their attorney, they could do that on the spot on the attorney's computer.

"This bill would address all these issues and streamline the process in what should be naturally uncomplicated. Thank you."

Representative Cabanilla's written remarks in support of the measure are as follows:

"Mr. Speaker, I am in strong support of HB 49 HD1. It is important that the relatives of fallen service people make the decision as to the disposition of the body of Armed Forces service member. Therefore the person designated by the deceased as authorized to direct disposition on a United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, may arrange for the final disposition of the deceased's body, including cremation, if the deceased:

- (1) Died while serving in any branch of the United States armed forces, United States reserve forces, or national guard; and

- (2) Executed the United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form.

"Mr. Speaker, it is critical that armed services members, who have given their lives in service of defending their country, be given the respect of having their bodies disposed of in the manner with which they wish.

"Mr. Speaker, thank you for the opportunity to offer comments."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 49, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARMED FORCES SERVICE MEMBERS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 814) recommending that H.B. No. 1241, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1241, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 816) recommending that H.B. No. 1133, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1133, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VETERINARY MEDICINE," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 817) recommending that H.B. No. 139, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 139, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE APPRAISERS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 821) recommending that H.B. No. 337, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 337, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ATHLETIC TRAINERS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 824) recommending that H.B. No. 1049, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1049, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 825) recommending that H.B. No. 1447, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1447, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PERMITTED TRANSFERS IN TRUST ACT," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Rhoads voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 826) recommending that H.B. No. 1052, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1052, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 828) recommending that H.B. No. 850, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 850, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to fishing on the island of Lana'i in establishing a community-based fishery resource management area advisory committee to implement traditional fishery management practices. This measure had no referral to the Committee on Hawaiian Affairs. Traditional fishery management practices is a subject matter and *kuleana* of the Hawaiian Affairs Committee."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 850, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 833) recommending that H.B. No. 377, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 377, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I strongly support HB No. 377, H.D. 2 which will encourage the development of traditional aquaculture techniques by requiring the Board of Land and Natural Resources to provide lease preferences for State land to be used for the reconstruction, restoration, repair, or use of Hawaiian fishponds. Rep. Mark Nakashima, the primary sponsor of this legislation, recognizes that expanding our knowledge of how our host culture lived sustainably in the past is a guidepost for moving our State towards food self-sufficiency in the future.

"Fishponds are important cultural resources to Native Hawaiians. Hawaiians built 488 fishponds statewide; however, only about 60 fishponds remain recognizable today. Oahu had 97 fishponds, but only six accessible ponds remain today. Thirteen fishponds have been restored statewide, with six ponds currently in use: three on Molokai, one on the Island of Hawaii, and two on Oahu.

"While fishponds today still serve as a source of sustenance for communities, they also offer a wide range of educational opportunities. These systems were built to be self-sufficient, and used to grow a variety of fish, invertebrates, and algae. Fishponds, besides being steeped in cultural tradition, can be a home to endangered marsh birds and other birds, fish and aquatic animals.

"Providing lease preferences to fishpond restoration would help streamline the process to help efforts to revive these cultural treasures. I understand the reluctance of the new chair of the Board of Land and Natural Resource to commit to the rulemaking to facilitate this preference, but I do expect the Department of Land and Natural Resource to set its priorities in support of a sustainable tool like Hawaiian fishponds and allocate its time and resources accordingly."

Representative Nakashima's written remarks in support of the measure are as follows:

"As author of this legislation, I thank my colleagues for moving this bill forward today. House Bill 377 would require the Department of Land and Natural Resources to provide State lease preferences for the reconstruction, restoration, repair, or use of Hawaiian fishponds. This will help to revitalize the aquaculture industry via a tried and proven method of fish cultivation that is non-invasive and will not have negative impacts on the surrounding ocean environments."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 377, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 834) recommending that H.B. No. 389, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 389, HD 3, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 835) recommending that H.B. No. 1312, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1312, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to small boat harbors and provides that State fast lands and submerged lands may be leased. This measure had no referral to the Committee on Hawaiian Affairs. Small boat harbors, State fast lands and submerged lands are public ceded lands."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1312, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 836) recommending that H.B. No. 1405, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1405, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to planning and requires the Office of Planning to develop a plan to establish a statewide system of greenways and trails. This measure doesn't take into consideration indigenous practices in creating greenways and trails."

Representative Nakashima's written remarks in support of the measure are as follows:

"This measure requires the Office of Planning to establish a statewide system of greenways and trails.

"Currently, the Office of Planning incorporates smart growth principles into its planning, land use, and Coastal Zone Management programs and activities to the extent that it is consistent with existing law. While this is a very important endeavor, I would suggest that other agencies such as the Na Ala Hele to convene a working group that would help to advise the

Legislature with regard to this very important effort to preserve a system of greenways and trails throughout the islands."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1405, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 839) recommending that H.B. No. 505, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 505, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FLOOD MITIGATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 840) recommending that H.B. No. 324, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 324, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to historic preservation that establishes the South Kona Wilderness Area to be administered by the Department of Land and Natural Resources. This measure was not referred to the Committee of Hawaiian Affairs. DLNR's State Historic Preservation Division (SHPD) is within the Committee's *kuleana* (area of responsibility)."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 324, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 841) recommending that H.B. No. 915, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 915, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to the Conveyance Tax which requires the Director of Taxation to provide the administrator of each county's real property assessment division with an image of all certificates of conveyances filed with the Bureau of Conveyances within ten days after the end of each week. This measure creates work for the Bureau of Conveyances and the Bureau may not have personnel to do this added task."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 915, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 842) recommending that H.B. No. 1079, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1079, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to fees for Habitat Conservation Plans. It authorizes the Department of Land and Natural Resources to collect fees to cover the technical assistance program costs associated with Habitat Conservation plans and adopt rules for establishing such fees, providing for the fees to be deposited into the Endangered Species Trust Fund. Creating this trust fund is not necessary when the State government needs to balance the State Budget."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1079, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR HABITAT CONSERVATION PLANS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 846) recommending that H.B. No. 1082, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1082, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONSERVATION AND RESOURCES ENFORCEMENT SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 847) recommending that H.B. No. 1431, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1431, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to covenants that authorize the counties to enact ordinances or adopt rules to enforce covenants that run with the land that impose standards regarding use, maintenance, landscaping and setbacks. This measure is unnecessary."

Representative Marumoto's written remarks in support of the measure are as follows:

"I rise to speak in favor of this measure. HB 1431- Covenants - would allow counties to enforce covenants that run with the land. The counties could insure that standards are maintained relating to land use, property maintenance, landscaping and setbacks. Counties can also establish penalties for violations.

"Though HB 1431 has statewide application, it would be useful in maintaining the attractiveness of the Kahala area of the 19th House District. In the past 6 years, a Japanese billionaire purchased over 2 dozen properties in Kahala and has allowed many of them to remain vacant and neglected. He has knocked down walls and filled swimming pools with the rubble. He has attempted to build an illegal seawall as well as demolishing several multi-million homes. Many of his activities have been performed without the requisite county permits. If brought to his attention, he has acquired permits after-the-fact.

"Long-time residents are beside themselves with the rundown condition of Kahala Avenue. They are also upset with the announcement that this owner is thinking about establishing a museum in their neighborhood. The zoning does not lend itself to a museum, but can be constructed with a variance. HB 1431 will help residents keep the area a single-family neighborhood - attractive and livable."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1431, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COVENANTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 848) recommending that H.B. No. 270, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 270, entitled: "A BILL FOR AN ACT RELATING TO THE COUNTIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 849) recommending that H.B. No. 397, HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 397, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 850) recommending that H.B. No. 297, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 297, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROBATION SERVICES FEE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 852) recommending that H.B. No. 245, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WITNESSES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 854) recommending that H.B. No. 301, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 301, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY COMPUTER SYSTEM SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 858) recommending that H.B. No. 302, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 302, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROBATION SERVICES SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 861) recommending that H.B. No. 1071, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1071, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH RELEASE ON CONDITIONS OF A PERSON FOUND UNFIT TO STAND TRIAL," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 863) recommending that H.B. No. 986, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 986, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TELEVISION AND FILM PRODUCTION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 866) recommending that H.B. No. 801, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 801, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 869) recommending that H.B. No. 1179, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1179, HD 3, entitled: "A BILL FOR AN ACT RELATING TO INVESTMENTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 872) recommending that H.B. No. 1063, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1063, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 874) recommending that H.B. No. 1540, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1540, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 879) recommending that H.B. No. 688, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 688, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Aquino's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I stand in strong support of House Bill 688 Relating to Education. This bill looks to define the terms 'bullying,' 'cyber bullying,' and 'harassment.' This bill is a positive step forward in addressing bullying in our schools. It explicitly defines, explains and provides various examples. I believe, Mr. Speaker that all students have the right to be in school without fear. This bill ensures a safe environment for all of our students."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 688, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 880) recommending that H.B. No. 945, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 945, HD 2, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support of HB 945 regarding Multi-Track Schools. The purpose of this bill is to provide an exemption to multi-track public schools in view of the 180 day requirement, recently passed by the legislature.

"Multi-Track schools are unique, and therefore this bill will give the flexibility needed for these schools affected to meet the greater of 171 days or 90% of the minimum number of days required by schools on a regular calendar. Only Mililani and Kapolei have such schools, which came into being in areas of rapid development – and when the State could not afford to build more schools.

"Hopefully this solution will be a thing of the past in a few years. With the declining enrollment in Mililani, the schools should return to a regular schedule soon. I urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 945, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 887) recommending that H.B. No. 866, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 866, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. This is an important bill given the central role played by pollinators like honey bees in making sure that Hawaii's agriculture is sustainable for the future. This bill will allow beekeepers to register in a confidential manner with the Department of Agriculture (DOA), and sets aside funds for an apiary (beehive) program.

"Annual registration by beekeepers will increase knowledge of the rapidly changing nature of beekeeping in the State, as well as assist DOA when required to address any problems in the health of Hawaii's bees.

"I urge my colleagues to support this bill."

Representative Tsuji's written remarks in support of the measure are as follows:

"Mr. Speaker I am in support of HB 866. This bill establishes voluntary registration requirements for beekeepers. The devastating discovery of the varroa mite on Oahu in 2007 and on the Big Island in 2008, indicates a need to improve the Department of Agriculture's ability to quickly respond and control further spread.

"DOA's intent with respect to the registration provisions include:

- (1) Creating a database of beekeepers' locations and contact information;
- (2) Surveying bee colonies to quickly identify new bee pests for rapid response to new bee pests and diseases; and
- (3) Improving communication between beekeepers and DOA;

"The registration period would be one year and the number of bee colonies and the number of queen bees would not be required. Also, an apiary program would be established in the Department to enable its

officials to identify beekeepers and where they are, survey beekeepers to determine if any new bee pests or diseases have been introduced into Hawaii and provide services such as pest and disease diagnostics to ensure Hawaii's beekeeping industries remain strong and vibrant.

"Mr. Speaker, your Committee on Agriculture took great interest in the testimony stating that "The lack of registration extremely hindered the initial responses to varroa mite detections on Oahu in 2007 and on Hawaii Island in 2008. While beekeeping associations existed on these islands, precise knowledge of where beekeepers located hives in relation to first detection would have allowed the Department to develop better strategies to respond to varroa mite incursions with careful consideration of the potential impacts on beekeepers."

"HB 866 is a good first step to address any new invasions, whether it is varroa mite, small hive beetle or new pests or diseases to Hawaii. Beekeeping registration provides the DOA with a more effective mechanism for rapid response in times of need."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 866, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 890) recommending that H.B. No. 1020, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1020, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to the Aloha Tower Development Corporation which establishes the Aloha Tower Complex Area under the jurisdiction of the Hawaii Community Development Authority (HCDA). This measure transfers the Aloha Tower Development Corporation (ATDC) rights, powers, functions, duties, assets, and fund to the HCDA. This measure was not referred to the Committee of Hawaiian Affairs and the property in question is public ceded lands which is within the Committee's *kuleana* (responsibility)"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1020, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ALOHA TOWER DEVELOPMENT CORPORATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 891) recommending that H.B. No. 1039, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1039, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to transportation and the issuance of Grant Anticipation Revenue Vehicles (GARVEE) bonds. This measure is premature and needs more discussion."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1039, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 897) recommending that H.B. No. 905, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 905, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DELIVERY OF GOVERNMENT SERVICES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 898) recommending that H.B. No. 129, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 129, HD 2, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks in support of the measure are as follows:

"I'd like to speak in favor of HB No. 129. The Perinatal Addiction Treatment of Hawaii Clinic was established in 2006 to help address community and legislative concerns about the lack of effective intervention with pregnant, substance-using women in Hawaii. Rather than locking these women up and putting their children in State custody, it was proposed at that time by Dr. Tricia Wright, PATH Clinic founder and medical director, that more effective and medically-appropriate ways to address this troubling issue was to treat these women in a respectful and humane medical manner that addressed the many health related needs of these women and their infants and children.

"Four years later, the PATH Clinic has proven itself to be perhaps the most cost effective treatment in the country for substance using pregnant women. Over 94% of women delivering via the PATH Clinic are non-substance using at the time of their baby's birth, and over 95% women retain custody of their infants 8 weeks after delivery saving the State further cost for child protection and care. PATH also acts as the bridge to treatment for many of their clients who have been unwilling or unable to access substance abuse treatment prior to their PATH experience.

"The array of services developed by the small and modest, but surprisingly comprehensive PATH Clinic provides the women with the support and skills they need in order to be successful mothers and productive adults. The medical cost of caring for one very low birth-weight infant post delivery in Hawaii can be thousands and thousands and thousands of dollars which PATH has more than saved yearly over the past four years of its operation. Please indicate your support for the work of this clinic by voting for this bill. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 129, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PERINATAL CARE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 899) recommending that H.B. No. 160, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 160, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES AND HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 900) recommending that H.B. No. 761, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTELLECTUAL DISABILITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 901) recommending that H.B. No. 978, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 978, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Hanohano's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in support with concern. This measure relates to health and authorizes the Hawaii Health Systems Corporation to lease Kula Hospital's medical clinic and all equipment, furnishings, and fixtures therein, to Malama I Ke Ola Health Center. This measure was not referred to the Committee on Hawaiian Affairs. Malama I Ke Ola Health Center is part of the Native Hawaiian Health Centers program and *kuleana* of the Committee on Hawaiian Affairs. Hospitals are on ceded lands."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 978, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 902) recommending that H.B. No. 1045, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1045, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 904) recommending that H.B. No. 1303, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1303, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Cabanilla's written remarks in support of the measure are as follows:

"HB1303 H.D.2 authorizes the Hawaii Public Housing Authority to assess a fee on all units for community facility maintenance. It requires a minimum rent schedule for housing projects and annual Consumer Price Index adjustments of minimum rent.

"Mr. Speaker, requiring public housing residents to contribute to both common areas and personal lodging expenses will both help Hawaii public housing to become self-sustaining and help create a sense of pride and community ownership for residents. Currently there is a backlog of deferred maintenance. This creates a "slum" atmosphere, which decreases morale and the desire to improve one's life.

"This measure, if it becomes law, will bring money into the State general fund. Mr. Speaker, I urge you and my colleagues to support HB1303 H.D.2

"Mr. Speaker, thank you for the opportunity to offer comments."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1303, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 906) recommending that H.B. No. 1584, HD 1, pass Third Reading.

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

1584, HD 1, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO EXPLORE OPPORTUNITIES TO FOSTER INTERNATIONAL RELATIONSHIPS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 907) recommending that H.B. No. 718, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 718, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FOSTER YOUTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 909) recommending that H.B. No. 1513, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1513, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED STRATEGY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 918) recommending that H.B. No. 1009, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1009, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FINGERPRINT RETENTION BY HAWAII CRIMINAL JUSTICE DATA CENTER," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 919) recommending that H.B. No. 1532, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1532, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY TAX APPEALS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 921) recommending that H.B. No. 1065, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1065, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 922) recommending that H.B. No. 1066, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1066, HD 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF HUMAN SERVICES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 926) recommending that H.B. No. 1642, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1642, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 927) recommending that H.B. No. 1529, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1529, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Nakashima's written remarks in support of the measure are as follows:

"Mr. Speaker, one of the most important and historically significant bills that we adopt today is House Bill 1529 that would put the State of Hawaii back on track with regard to planning for the future of Hawaii. This bill would create a combined legislative and administration working group that would insure the update and implementation of Chapter 226, Hawaii Revised Statutes. More commonly known as the Hawaii State Plan, this document has lay mostly dormant for the past thirty years and is badly in need of updating and commitment by Hawaii's leaders to insure that future investment and allocation of State resources will no longer be squandered and that allocation of money by the State Legislature is transparent and deliberate."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1529, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PLANNING," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 929) recommending that H.B. No. 909, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 909, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 930) recommending that H.B. No. 1003, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1003, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 932) recommending that H.B. No. 1339, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1339, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR COMMISSIONS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 936) recommending that H.B. No. 1524, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1524, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"This bill seeks to deter and prevent agricultural theft. Certain key elements of the original measure were removed. However I believe that the House must consistently support the many facets of Hawaii's agriculture industry. In that regard, addressing agriculture theft is sensible and I urge my colleagues to vote yes on HB 1554."



Representative Nakashima's written remarks in support of the measure are as follows:

"House Bill 1524 requires those sentenced for agricultural theft to provide restitution to the victim. It includes in the offense of theft in the second degree the failure to maintain required certificates while in possession of agricultural commodities

"There have been many cases on the Island of Hawaii relating to agricultural theft. Generally, these cases have a similar fact pattern. A farmer catches someone on the farmer's property – usually late at night – and the alleged thief has a bag of produce on the ground. Many times the thief does not choose the best fruit, and often times does damage to the plants. If the farmer catches the thief too soon – before they have taken a substantial haul of product – the crime is a petty misdemeanor because the value is under \$100.

"Agricultural theft is a serious problem on the Island of Hawaii causing economic hardship and massive losses of agricultural products. According to the Hawaii Agricultural Statistic Service, it is estimated that farmers and ranchers lose \$1.9 million per year due to agricultural theft. While agricultural products are being stolen on a consistent basis, it is equally devastating for Hawaii's farmers and ranchers when their equipment and supplies are also stolen from their property. I believe that this bill is an important first step in addressing the difficulties faced by Hawaii's farmers and ranchers."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1524, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL THEFT," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 941) recommending that H.B. No. 663, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 663, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTS," passed Third Reading by a vote of 51 ayes.

### THIRD READING

#### H.B. No. 1087, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1087, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 316, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 316, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE RECORDS," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 716, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 716, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 44, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 44, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 354, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 354, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX APPEALS," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 439, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 439, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EVIDENCE," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 1007, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1007, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY OFFENSES AGAINST CHILDREN," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 241, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 241, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTING PROSTITUTION," passed Third Reading by a vote of 51 ayes.

#### H.B. No. 1221, HD 1:

Representative B. Oshiro moved that H.B. No. 1221, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Takai's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I rise in support of this measure. H.B. 1221 would establish a very limited exemption for liquor licensees of large public facilities such as the Aloha Stadium, Waikiki Shell, and Neal S. Blaisdell Center.

"Licensees would still have to have security plans for preventing minors from drinking on the licensed premises approved by the appropriate county liquor commission, and would still have to carry out their security plans in good faith.

"This limited exemption would recognize the unique circumstances and difficulties faced by licensees providing liquor for events in large public facilities.

"The success of such events depends on attracting a broad age-range of customers, including customers over and under the age of 21. And many customers over the age of 21 (Hawaii's legal drinking age) like to have beer, wine, and other liquor at events at the Stadium, Shell, and Blaisdell Center.

"I support this bill because I feel that if a liquor licensee who serves alcohol in a large public facility, receives the appropriate county liquor commission's approval of their security plan and implements the plan accordingly, should not be punished for a breach in the security plan that is not in their control.

"I believe the venues all do their best to keep drinks out of the hands of minors; however, there will be those irresponsible consumers who choose to do otherwise. Punishing the venue for not monitoring every single adult beverage from point of sale to consumption is beyond the purview of this Body. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1221, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Third Reading by a vote of 51 ayes.

**H.B. No. 381, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 381, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING UNNECESSARY PROVISIONS," passed Third Reading by a vote of 51 ayes.

**H.B. No. 618, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PUBLIC ORDER," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1089, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1089, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1091, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1091, HD 1, entitled: "A BILL FOR AN ACT RELATING TO USE TAX," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1319, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1319, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROGRESSIVE TAX REFORM TASK FORCE," passed Third Reading by a vote of 51 ayes.

**H.B. No. 404, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 404, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PALOLO CHINESE HOME AND ITS SUBSIDIARIES," passed Third Reading by a vote of 51 ayes.

**H.B. No. 744, HD 1:**

Representative B. Oshiro moved that H.B. No. 744, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"HB744 would create the Dam Safety Task Force to be made up of the Chairperson of the Board of Land and Natural & Resources who would also be the Task Force Chair, the Chairperson of the Board of Agriculture; the Attorney General and others

"Dams, reservoirs and irrigation systems are all necessary aspects to a sustainable agriculture industry in Hawaii. In that respect, it is prudent to have an entity to review applicable laws, rules, and ordinances and to recommend actions to be taken by the engineering division of the Department of Land and Natural Resources (DLNR) in its administration of the Hawaii Dam Safety Program. Therefore I am in support of this measure."

The motion was put to vote by the Chair and carried, and H.B. No. 744, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DAM SAFETY," passed Third Reading by a vote of 51 ayes.

**H.B. No. 814, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 814, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 51 ayes.

**H.B. No. 973, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 973, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1060, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1060, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

**H.B. No. 418, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 418, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX LAW," passed Third Reading by a vote of 51 ayes.

**H.B. No. 79, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 79, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Third Reading by a vote of 51 ayes.

At 9:19 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1067, HD 1  
 H.B. No. 1053, HD 1  
 H.B. No. 904, HD 2  
 H.B. No. 1098, HD 1  
 H.B. No. 616, HD 2  
 H.B. No. 597, HD 1  
 H.B. No. 238, HD 2  
 H.B. No. 1093, HD 1  
 H.B. No. 1094, HD 1  
 H.B. No. 594, HD 2  
 H.B. No. 453, HD 1  
 H.B. No. 1005, HD 2  
 H.B. No. 1064, HD 2  
 H.B. No. 1070, HD 2  
 H.B. No. 1333, HD 1  
 H.B. No. 1368, HD 2  
 H.B. No. 931  
 H.B. No. 1139  
 H.B. No. 1613, HD 1  
 H.B. No. 980, HD 1  
 H.B. No. 758, HD 1  
 H.B. No. 290, HD 1  
 H.B. No. 424  
 H.B. No. 1570, HD 2  
 H.B. No. 596, HD 1  
 H.B. No. 855, HD 1  
 H.B. No. 1286, HD 2  
 H.B. No. 927, HD 1  
 H.B. No. 1017, HD 2  
 H.B. No. 1568, HD 2  
 H.B. No. 823, HD 1  
 H.B. No. 916  
 H.B. No. 775  
 H.B. No. 1322, HD 2  
 H.B. No. 1327, HD 2

H.B. No. 1603, HD 1  
 H.B. No. 773, HD 1  
 H.B. No. 1055, HD 1  
 H.B. No. 1313, HD 2  
 H.B. No. 908  
 H.B. No. 830  
 H.B. No. 1323, HD 1  
 H.B. No. 461, HD 1  
 H.B. No. 492, HD 2  
 H.B. No. 605, HD 2  
 H.B. No. 1000, HD 2  
 H.B. No. 1088, HD 1  
 H.B. No. 491, HD 1  
 H.B. No. 1109, HD 1  
 H.B. No. 169, HD 2  
 H.B. No. 174, HD 1  
 H.B. No. 175, HD 2  
 H.B. No. 527, HD 2  
 H.B. No. 587, HD 2  
 H.B. No. 1036, HD 1  
 H.B. No. 1076, HD 1  
 H.B. No. 960, HD 1  
 H.B. No. 898, HD 2  
 H.B. No. 1384, HD 2  
 H.B. No. 889, HD 2  
 H.B. No. 326, HD 1  
 H.B. No. 1201, HD 1  
 H.B. No. 561, HD 1  
 H.B. No. 667, HD 1  
 H.B. No. 1342, HD 1  
 H.B. No. 318, HD 2  
 H.B. No. 1008, HD 2  
 H.B. No. 49, HD 1  
 H.B. No. 1241, HD 2  
 H.B. No. 1133, HD 2  
 H.B. No. 139, HD 1  
 H.B. No. 337, HD 1  
 H.B. No. 1049, HD 2  
 H.B. No. 1447, HD 2  
 H.B. No. 1052, HD 2  
 H.B. No. 850, HD 1  
 H.B. No. 377, HD 2  
 H.B. No. 389, HD 3  
 H.B. No. 1312, HD 2  
 H.B. No. 1405, HD 1  
 H.B. No. 505, HD 2  
 H.B. No. 324, HD 2  
 H.B. No. 915, HD 2  
 H.B. No. 1079, HD 2  
 H.B. No. 1082, HD 1  
 H.B. No. 1431, HD 1  
 H.B. No. 270  
 H.B. No. 397, HD 2  
 H.B. No. 297, HD 1  
 H.B. No. 245, HD 1  
 H.B. No. 301  
 H.B. No. 302, HD 1  
 H.B. No. 1071, HD 2  
 H.B. No. 986, HD 2  
 H.B. No. 801, HD 2  
 H.B. No. 1179, HD 3  
 H.B. No. 1063, HD 1  
 H.B. No. 1540  
 H.B. No. 688, HD 2  
 H.B. No. 945, HD 2  
 H.B. No. 866, HD 2  
 H.B. No. 1020, HD 2  
 H.B. No. 1039, HD 1  
 H.B. No. 905, HD 1  
 H.B. No. 129, HD 2  
 H.B. No. 160, HD 2  
 H.B. No. 761, HD 1  
 H.B. No. 978, HD 2

H.B. No. 1045, HD 1  
 H.B. No. 1303, HD 2  
 H.B. No. 1584, HD 1  
 H.B. No. 718, HD 1  
 H.B. No. 1513, HD 1  
 H.B. No. 1009, HD 2  
 H.B. No. 1532, HD 2  
 H.B. No. 1065, HD 1  
 H.B. No. 1066, HD 1  
 H.B. No. 1642, HD 2  
 H.B. No. 1529, HD 2  
 H.B. No. 909, HD 2  
 H.B. No. 1003, HD 2  
 H.B. No. 1339, HD 1  
 H.B. No. 1524, HD 2  
 H.B. No. 663, HD 2

H.B. No. 1087, HD 1  
 H.B. No. 316, HD 1  
 H.B. No. 716, HD 1  
 H.B. No. 44, HD 1  
 H.B. No. 354, HD 1  
 H.B. No. 439, HD 1  
 H.B. No. 1007, HD 1  
 H.B. No. 241, HD 1  
 H.B. No. 1221, HD 1  
 H.B. No. 381, HD 1  
 H.B. No. 618, HD 1  
 H.B. No. 1089, HD 1  
 H.B. No. 1091, HD 1  
 H.B. No. 1319, HD 1  
 H.B. No. 404, HD 1  
 H.B. No. 744, HD 1  
 H.B. No. 814, HD 1  
 H.B. No. 973, HD 1  
 H.B. No. 1060, HD 1  
 H.B. No. 418, HD 1  
 H.B. No. 79, HD 1

At this time, the Chair announced:

"Members, please remember to submit to the Clerk your list of House Bills on the Consent Calendar for which you will be inserting your comments, either in support or in opposition, into the Journal. This must be done by the adjournment of today's Floor session.

"So for all of you, I'll probably give you until 7:20 p.m. That's my estimate for the time we will get through this evening. I'm just saying 7:20 or earlier if we have a limited amount of debate on the next 250-something measures."

#### LATE INTRODUCTIONS

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

Representative Har introduced 3rd, 4th and 5th grade students of Makakilo's Mauka Lani Elementary School Ohana Council. They were accompanied by their advisors, Mrs. Teson, Ms. Sakato and Mrs. Domingo.

At 9:21 o'clock a.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:22 o'clock a.m.

The Chair then clarified:

"Members, prior to the recess, we did take the vote on Third Reading and I announced that, 'said bills passed Third Reading' at that point in time. The procedure was correct. So we will take a recess for 15 minutes."

At 9:22 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:45 o'clock a.m. with Vice Speaker Manahan presiding.

### ORDINARY CALENDAR

At this time, the Chair announced:

"At this time we will take certain items out of order. On page 41, Stand. Com. Rep. No. 912."

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 912) recommending that H.B. No. 341, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 341, HD 3, pass Third Reading, seconded by Representative Evans.

At this time, Representative Rhoads offered Floor Amendment No. 1, amending H.B. No. 341, HD 3, as follows:

"SECTION 1. H.B. No. 341, H.D. 3, RELATING TO EMPLOYMENT PRACTICES, is amended by amending section 1 to read as follows:

SECTION 1. Section 378-32, Hawaii Revised Statutes, is amended to read as follows:

"**§378-32 Unlawful suspension, discharge, or discrimination.** (a) It shall be unlawful for any employer to suspend, discharge, or discriminate against any of the employer's employees:

- (1) Solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act; or
- (2) Solely because the employee has suffered a work injury which arose out of and in the course of the employee's employment with the employer and which is compensable under chapter 386 unless the employee is no longer capable of performing the employee's work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of reemployment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or reemployment of the injured employee;
- (3) Because the employee testified or was subpoenaed to testify in a proceeding under this part; or
- (4) Because an employee tested positive for the presence of drugs, alcohol, or the metabolites of drugs in a substance abuse on-site screening test conducted in accordance with section 329B-5.5; provided that this provision shall not apply to an employee who fails or refuses to report to a laboratory for a substance abuse test pursuant to section 329B-5.5.

(b) It shall be an unlawful practice for an employer or a labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave; provided that, after an employee uses three or more consecutive days of sick leave, an employer or labor organization may require the employee to provide written verification from a physician indicating that the employee was ill when the sick leave was used.

(c) Employers and labor organizations are not prohibited from barring or discharging from employment, withholding pay from, or demoting an

employee if the employee is unable to fulfill the essential job functions or requirements of the employee's position.

(d) Subsections (b) and (c) shall only apply to employers who have:

- (1) A collective bargaining agreement with their employees; and
- (2) One hundred or more employees."

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

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

Representative Rhoads moved that Floor Amendment No. 1 be adopted, seconded by Representative Yamashita.

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

"Mr. Speaker, in support. Through the vagaries of miscommunication, sleep deprivation, things that happen at Finance late at night, the bill that stands before us today is basically 180 degrees from what was intended. The underlying principle is that you should be able to take sick leave if you're actually sick.

"This bill as it stands now would make it so that only small businesses are affected, those with under 100 employees, and those without collective bargaining agreements. The intent of both the Labor Committee and the Finance Committee, I believe, was to exempt those small businesses, those under 100 employees and to only include businesses with collective bargaining agreements. Therefore the necessity of this floor amendment."

The motion that Floor Amendment No. 1, amending H.B. No. 341, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES" be adopted, was put to vote by the Chair and carried.

At 9:49 o'clock a.m. the Chair noted that Floor Amendment No. 1, was adopted.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 692) recommending that H.B. No. 1134, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1134, HD 1, pass Third Reading, seconded by Representative Evans.

At 9:49 o'clock a.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:50 o'clock a.m.

At this time, Representative Pine offered Floor Amendment No. 2, amending H.B. No. 1134, HD 1, as follows:

"SECTION 1. House Bill No. 1134, House Draft 1, is amended by deleting its contents, and replacing it with the following text, to read as follows:

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

SECTION 1. The legislature finds that the health and well-being of Hawaii's residents and families is paramount. Consequently, for over thirty years, the Hawaii Prepaid Health Care Act has protected the welfare of the people of Hawaii, offering residents unparalleled access to health care benefits and services. The Hawaii Prepaid Health Care Act has accomplished this through various mandates, such as requiring employers who employ one or more full-time employees to provide health insurance, setting the standards for health care coverage in Hawaii, limiting the

amount that employees must contribute to premiums, and requiring employees to accept coverage unless covered under another health insurance plan (e.g., a spouse's plan). This has resulted in Hawaii having robust health care plans, low uninsured rates, and some of the lowest premiums in the country. While Hawaii experiences some of the same issues relative to access, quality, and cost as other states across the country, the Hawaii Prepaid Health Care Act has ensured system stability throughout the State.

The legislature further finds that at the time the Hawaii Prepaid Health Care Act was enacted, the legislature anticipated future federal health care reform legislation. Thus, the Hawaii Prepaid Health Care Act included a termination clause in the event such federal legislation was passed. Section 393-51, Hawaii Revised Statutes, states:

This chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

The legislature further finds that in 1993, the newly-installed Clinton administration launched health care reform onto the national agenda. Concerned that the federal law would jeopardize the quality of health care that people enjoyed in Hawaii because of the Hawaii Prepaid Health Care Act, the legislature enacted Act 99, Session Laws of Hawaii 1994, which repeals the Hawaii Prepaid Health Care Act's termination clause upon the effective date of any federal act permitting an amendment of the Hawaii Prepaid Health Care Act.

While the Clinton reform did not materialize, national health care reform finally became a reality with the enactment of the federal Affordable Care Act in 2010. Although the Affordable Care Act generally provides for individual and employer health care coverage, it acknowledges the success of Hawaii's prepaid health care model by providing for the continuance of the Hawaii Prepaid Health Care Act in Section 1560(b) of the Affordable Care Act, as follows:

Nothing in this title (or an amendment made by this title) shall be construed to modify or limit the application of the exemption for Hawaii's Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)).

The legislature understands the value of the Affordable Care Act and the efforts of the President and United States Congress. However, the legislature continues to believe that the Hawaii Prepaid Health Care Act provides superior benefits for the people of Hawaii, and the legislature is wary that current efforts to move Hawaii to the Affordable Care Act will jeopardize the Hawaii Prepaid Health Care Act. Therefore, the

legislature believes it is imperative to study this issue before introducing any legislation that attempts to preempt the Affordable Care Act and jeopardize the Hawaii Prepaid Health Care Act.

SECTION 2. (a) There is hereby created the Hawaii prepaid healthcare task force to assess the current state of the Hawaii Prepaid Healthcare Act and the effects that the Affordable Care Act will have on the Hawaii Prepaid Healthcare Act and report back to the legislature.

(b) The task force shall consist of fifteen members and be as follows:

(1) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader of the house of representatives;

(2) Two members of the senate, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the minority leader of the senate;

(3) The Director of Health or their designee;

(4) The Director of Labor and Industrial Relations or their designee;

(5) The two US Senators from Hawaii or their designee;

(6) The two members of the US House of Representatives from Hawaii or their designee;

(7) The Attorney General or his designee; and

(8) The Governor or his designee.

(9) A representative from the health insurance industry or their designee;

(10) A representative from Hawaii Medical Association or their designee;

(11) The Dean of John A. Burns School of Medicine or their designee;

(12) A licensed physician in the State of Hawaii chosen by the other members; and

(13) A labor attorney, with an expertise in ERISA, chosen by the Hawaii Bar Association Labor Law Division.

(c) The task force shall meet at least four times and additionally as convened by the chairperson.

(d) The task force shall:

(1) Assess the Hawaii Prepaid Health Care Act, and establish the data on how many people are covered by the Act and the affects of the Act on the people of Hawaii;

(2) Study and evaluate the Federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued under, those Acts.

(3) Study and evaluate the affect that proposed changes to the Hawaii Prepaid Healthcare Act, such as HB 1134 as originally introduced, would have on the ERISA exemption for Hawaii; and

(4) The task force shall prepare and submit a written report, 30 days prior to the convening of the 2012 legislature that includes:

(A) A summary of the work accomplished by the task force over the prior year;

(B) An assessment of the Hawaii Prepaid Health Care Act and the statistics requested;

(C) An assessment of federal Patient Protection and Affordable Care Act;

(D) An assessment of proposed legislation to amend the Hawaii Prepaid Health Care Act and the affect of ERISA preemption on the proposed legislation; and

(E) Any legislative recommendations, with a statement of how the ERISA preemption will affect the proposed legislation as the task force deems necessary.

(e) The task force shall terminate at the convening of the 2012 legislature.

SECTION 4. This Act shall take effect upon approval."

Representative Pine moved that Floor Amendment No. 2 be adopted, seconded by Representative Ward.

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

"Yes, Mr. Speaker. Thank you very much for the opportunity. This bill relates to what is otherwise known as 'Obamacare.' And it purports to want to save Hawaii's Prepaid Health Care Act. But the State Attorney General has said this bill would jeopardize Hawaii's health care law because this change will trigger preemption by the Federal Employee Retirement Income Security Act of 1974, otherwise known as ERISA.

"The Attorney General appointed by Governor Abercrombie is saying this bill will damage our healthcare system, so why are we pushing this legislation here today? This bill acknowledges that the Affordable Health Care Act of Hawaii also known as Obamacare is not as good as Hawaii's Prepaid Health Care Act. So why are we in this Chamber wanting to implement parts of Obamacare when our own bill is saying that our own Hawaii's Prepaid Health Care Act is superior to Obamacare.

"The Hawaii Congressional Delegation reportedly put language in the Obamacare bill to protect Hawaii's Prepaid Health Care Act, so basically what the Attorney General is trying to say, Mr. Speaker, is we received

this exemption from Obamacare, but today what we are doing is making changes to the very law that got that approval for us. And so really what we're just asking is if we can instead do a task force that can include our congressional delegation, include members of the House and Senate, include people in the health industry, our Health Director, to give us a little bit more time.

"Our congressional delegation as you know, Mr. Speaker, worked extremely hard on passing Obamacare for American citizens. And they worked extremely hard to ensure that since we have one of the best healthcare systems in the nation that our healthcare system will be excluded from having to be a part of this Act. And it was because of this exemption that we felt in Hawaii that our healthcare will not be in jeopardy because it's doing pretty good right now for our citizens.

"So by us passing this piece of legislation today as is, without instead turning it into a task force where we can look into this and work with our congressional delegation and people that understand ERISA better, we are therefore putting in jeopardy our ability to be exempted by the Obamacare Act."

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

"Mr. Speaker, I also rise in favor of this amendment. The amendment is to buy some time to think, to contemplate, to reason before we move, or we contemplate before we jump into this. In addition to what the Minority Floor Leader said I'd like to add three questions; three that hopefully we will all contemplate.

"Wouldn't repealing the termination clause subject Hawaii's Prepaid Health Care Act lead to possible lawsuits and are we willing to put up the money at this time of hard economic times to defend HB 1134? And would it likely not create more confusion in already a process by which as you know some of the colleagues said, 'Well, let's pass the bill first and then we'll read it and understand it second.' And we know that the bill has come in almost at twice the cost from the CBO estimates.

"The second question is, if the goal is to preserve the Hawaii Prepaid Health Care Act, then what happens if a national healthcare plan comes along that is better than the Hawaii system. Do we then need to undo this bill?

"And then question three, which is as important. Would the sponsor of this bill please explain what ERISA does and why he is willing to allow ERISA to preempt our State's Prepaid Health Care Law that has worked so effectively over the past 35 years?

"Mr. Speaker, the question is, would the Chair of the Health Committee be so gracious as to stand up and respond to the question regarding ERISA and what we may be risking, or not risking, according to his assessment of having pass this bill."

Representative Yamane rose to respond, stating:

"Thank you, Mr. Speaker. I am not the primary introducer of this measure and I will ask for a brief recess if anybody wants to ask me a question, they are free to do so."

At 9:56 o'clock a.m. Representative Yamane requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:57 o'clock a.m.

Representative Ward continued, stating:

"Mr. Speaker, with your permission, I would like to redirect the question to the actual sponsor of the bill who probably knows ERISA very well because I know he's read ERISA. He's read the bill. And he usually thinks some of us haven't, so his enlightenment would be greatly appreciated."

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

"Mr. Speaker, I rise in opposition to the floor amendment. I'll just be very brief. Actually what this does is it goes back, and if you look at the actual bill and what we're talking about, it is Act 99 which was going back to 1993. At that time, we had to actually try to repeal the sunset. So 18 years ago we tried to do the same thing because at that time what we realized was our Prepaid Health Care Act is about one of the best in the nation. It's about the best that you can get.

"And businesses have kind of realized that, 'We know what we're dealing with. We know what the devil is. We may not like it, but we don't want the changes.' So at that time back in 1993, 18 years ago, we tried to repeal it. And that has just sat on the books. Act 99 has just sat on the books for 18 years.

"Now that the federal government has passed a healthcare law that potentially in 2014 could have an effect of ending our Prepaid Health Care Act. This bill is intended to actually take destiny in our own hands and say, 'If we want to end our Prepaid Health Care Act, that is something we can do on our own.'

"There have been legal questions raised as to whether we are preempted, because under ERISA we have an exemption and we cannot substantively amend our Prepaid Health Care Act without getting federal approval.

"First, I would say that Act 99 has already proven that for 18 years. Preemption hasn't been brought and therefore our Prepaid Health Care Act has continued for 18 years.

"Secondly, I would also say that the Attorney General did clarify that if there is any preemption issue under the severability interpretation under our Constitution, as well as the statutes, the only thing they will be striking down is this singular act. And they wouldn't be striking down the entire Prepaid Health Care Act.

"So preemption only works in a limited fashion. What I mean by that is, it would only go as far as it needs to if, and that's a big if, we're going into a substantive area by terminating the sunset clause here, if that is the intent of preemption. At that point that singular act will be actually invalidated, but not the Prepaid Health Care Act.

"So for those reasons, I don't think that there is any need for us to go through this task force. It's something that we have until 2014 to figure out and therefore I will continue to advocate for the underlying bill and stand in opposition to this amendment."

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

"Thank you, Mr. Speaker, I'm rising in support of the floor amendment and I would like to ask permission to insert the remarks of the Attorney General into the Journal. Thank you."

Representative Thielen submitted testimony from the Department of the Attorney General dated February 23, 2011, as follows:

"The Attorney General is opposed to the bill because the proposed changes are likely preempted by the Employee Retirement Income Security Act of 1974 ("ERISA").

The bill amends chapter 393, Hawaii Revised Statutes ("HRS"), also known as the Hawaii Prepaid Health Care Act ("PHCA"), by repealing chapter 393, part V, HRS, (part V consists of section 393-51, HRS, the termination provision quoted below). Section 393-51, HRS, provides that the "chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii." The bill will also repeal Act 99, passed by the Legislature in 1994, which repeals chapter 393, part V, HRS, and which becomes effective

"upon the effective date of any federal act permitting the amendment of the Hawaii Prepaid Health Care Act." We note that to date, no such amendment has been enacted by Congress.

The Attorney General believes that the amendments made by the bill are preempted by ERISA. ERISA regulates pension and benefit plans and establishes standards for the administration of such plans. ERISA has a sweeping preemption provision that provides in relevant part that ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C.A. § 1144(a). The subsection, in full, provides as follows:

Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(b) of this title. This section shall take effect on January 1, 1975.

There is a narrow exemption from ERISA preemption for the Hawaii PHCA. 29 U.S.C.A. § 1144(b) (5) (A) provides as follows:

Except as provided in subparagraph (B), subsection (a) of this section shall not apply to the Hawaii Prepaid Health Care Act Haw. Rev. Stat. §§ 393-1 through 393-51).

That exemption applies only to the PHCA as it existed on September 2, 1974. 29 U.S.C.A. § 1144(b) (5) (B) (ii) provides as follows:

Nothing in this subparagraph (A) shall be construed to exempt from subsection (a) of this section-(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

In other words, the ERISA preemption provision applies to any amendments to the PHCA "to the extent it provides for more than the effective administration" of the PHCA. Any substantive amendment to the PHCA would go beyond the allowable exemption of amendments only for the "effective administration" of the PHCA and would, therefore, be subject to preemption. *Council of Hawaii Hotels v. Agsalud*, 594 F. Supp. 449 (D. Haw. 1984) (amendment to require plans negotiated through collective bargaining to contain the required minimum benefits constituted a substantive change and was preempted).

The plain meaning of the word "administration" is the "performance of executive duties management." Merriam-Webster's Collegiate Dictionary 15 (10<sup>th</sup> ed. 1993). In *Council of Hawaii Hotels vs. Agsalud*, supra, the court commented on the meaning of "effective administration" as follows:

Finally, the legislative history of the ERISA amendment indicates that Congress intended the term "effective administration" to be construed strictly. It is clear that Congress intended to adhere to *Standard Oil*, preempting the Act's drug and alcohol abuse treatment provisions. State officials had lobbied to restore state regulation of prepaid health care plans, and the accommodation reached was that the Hawaii Act would be given effect, but only as to its substantive provisions in effect on September 2, 1974. Any subsequently enacted substantive change would succumb to "the broad scope of ERISA preemption." The ERISA Amendment thus was to "operate only as a narrow exception." *Id.* At 455 (footnotes omitted).

The Attorney General believes that the repeal of the termination provision of the PHCA, section 393-51, HRS, as proposed in this bill, is not an amendment that provides for the effective administration of the PHCA because it does not merely address the performance of executive duties, but goes to the substance of whether Hawaii's PHCA continues in force or not. Therefore, we believe the amendment is subject to preemption by ERISA.

We respectfully request that this bill be deferred."

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

"In opposition. When your Committee on Consumer Protection heard this bill, everybody was supportive except the Attorney General so we deferred it, only to learn that the Attorney General's opinion was flawed and so we came back and passed it."

Representative Ward rose to respond, stating:

"Mr. Speaker. A brief note of appreciation, in rebuttal. I appreciate the Majority Floor Leader's comments and historical note. However, he himself admitted there are legal questions. The last I checked, it's 2011. The last we understood it was 2014 when this Obamacare goes in effect. We've got three years, Mr. Speaker. So what's the hurry if there are legal questions? Why rush into it? Why leap into something we're not sure how deep the water is? So I think caution is the better message here, and discretion the better part of valor. Thank you."

Representative Pine rose to respond, stating:

"You know, Mr. Speaker, sometimes when I want to get a reality check I visit my grandmother. I'm still in opposition, in rebuttal and confusion. Because sometimes we can be in this building, and we can hear all this terminology. But still there are some really smart people out there and I like to talk to my grandmother. She's a longtime plantation worker and so sometimes she just wants to hear things straight.

"And so I say, 'Well grandmother, how did we do on the Floor today?' And she says, 'Oh baby, you sound so smart, all of you, but you still don't make any sense.' We keep repeating that we have until 2014, so what's the rush? What is the rush of passing this bill today, Mr. Speaker?"

"We have the Attorney General saying one thing. Then we have someone saying that they believe in their opinion, that the Attorney General's opinion is flawed. Then you have another lawyer telling us, 'Well, if you pass that, oh my gosh, you're going to mess us the Prepaid Health Care Act,' an Act that took years, years for us to put together as a Legislature.

"So what the Republican Caucus is just doing today, it's not that we're against trying to make healthcare better, or trying to make adjustments. We have a little red flag in our minds right now. We have a fact. The one fact that we have that we can all clarify that is true and agree on is that we have until 2014. So all we're saying is on this very, very important piece of legislation, let's move wisely. Let's move slowly, and let's ensure that we make sure that we check with just about everybody that has an opinion and get the final opinion from our congressional delegation who will let us know whether we would hurt our exemption of Obamacare."

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

"Mr. Speaker, I'm standing in opposition. Could I have the good words from the Representative from Aiea inserted as my own? Also, Mr. Speaker, again to support the Chair of Consumer Protection, we did get an opinion, a revised opinion by the Attorney General addressing the matter from the previous testimony on the February 23rd hearing date.

"Mr. Speaker, I'd also like to address some of the issues regarding moving slowly. On the issue about getting feedback from our congressional delegation, we've been doing that consistently and periodically on this matter, Mr. Speaker. This discussion started with our congressional delegation and with the previous Administration and their Attorney General on this issue of the Prepaid Health Care Act, and its impact on healthcare reform, Mr. Speaker. So this is an ongoing, periodic situation and does not require an unwieldy 15-member task force. Thank you."

The motion that Floor Amendment No. 2, amending H.B. No. 1134, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE," be adopted, was put to vote by the Chair and upon a voice vote,

failed to carry, with Representatives Herkes, B. Oshiro and Yamane voting no.

(Main Motion)

At 10:04 o'clock a.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:06 o'clock a.m.

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

"Yes just in opposition, Mr. Speaker. I would like to reinsert the comments that I said in support of amending this bill. I continue to believe that this is really important legislation that could affect people's lives and that we should take that extremely, extremely seriously. We should move slowly on this with the time that we are allowed to have."

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

"Mr. Speaker, I rise in opposition to the main motion. Thank you. And I appreciate the Chair of Health who did explain during the recess that the Attorney General is no longer opposed to it. He doesn't say however, that he doesn't have any questions about it and I think we should wait until the congressional delegation weighs in because ERISA is a federal phenomenon, not a state one. So we've got to sync and mesh with what the feds are doing, and I would feel much more comfortable to again put this on the side and wait, and reason, and then move on it because we've got three more years to go. So for those reasons, I'm still opposed. Thank you."

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

"Thank you, Mr. Speaker. I'm standing in support of the measure. I would again like to request that the words of the Representative of Aiea also be inserted as my own regarding this measure. Also, Mr. Speaker, as to what was referred to by the Minority Leader, I would also request that the comments provided by the Department of the Attorney General to the 26th Legislature, 2011, dated Wednesday March 2nd, 2011 at 2:00 p.m., be inserted as part of my comments that indicate that specifically, in quotes, that the Attorney General is not opposed to the intent of the bill. So it adds to the issue regarding the opinion. Thank you."

Representative Yamane's written remarks as follows:

"Mr. Speaker, I stand in support of this measure. The Hawaii Prepaid Health Care Act (HPHCA) has provided countless working families with quality health care benefits since it went into effect in 1975. This progressive reform is without a doubt one of the main reasons why Hawaii's workers and their families today constitute one of the healthiest populations in the nation; 5th best in 2010 according to United Health Foundation. We have a lower uninsured rate than most of the country, and lower premiums on average. We have robust private benefit plans. In short, the HPHCA has proven itself to be effective. In anticipation of national health care reform that would presumably provide greater federal protections, the HPHCA included a sunset provision to be implemented upon the effective date of such federal legislation.

"Although such federal legislation has finally come in the form of the Patient Protection and Affordable Care Act (Public Law 111-148), the very future of this federal law remains in doubt even today. Congressional review of this Act is ongoing, with some in Congress moving to limit the law's effect by repealing certain provisions and cutting off funding to others. If these amendments pass, it is very possible that the federal health care law will not be capable of preserving the level of high quality health care currently enjoyed by Hawaii's residents under the State's HPHCA.

"It is extremely vital that the HPHCA remain in place so future generations of Hawaii residents can continue to enjoy the valuable health benefits that the Act has provided our State for the past 35 years. H.B. 1134, H.D. 1, would ensure that this happens. H.B. 1134 repeals the sunset provision of the HPHCA, and would ensure that the Act remains in

effect after the Patient Protection and Affordable Care Act goes into effect in 2014.

"Some of my distinguished colleagues have raised concerns that this proposed amendment would raise legal questions. Specifically, the fear is that amending the HPHCA would violate a federal law that exempts Hawaii from the preemptive clause of the Employment Retirement Income Security Act ("ERISA"), and could thereby invalidate the entire HPHCA. This fear stems from the language of the exemption at 29 U.S.C. § 1144(b)(5)(B)ii, which states that this exemption would not apply to any future amendments to the HPHCA except "to the extent it provides for more than the effective administration of such Act."

"However, these fears are largely unfounded. I refer my colleagues to the testimony of the Department of the Attorney General, dated March 2, 2011 at 2:00 p.m., and included below. Here, the Department states that it does not believe that the entire HPHCA would be repealed if a court subsequently rules that this amendment is preempted by the ERISA. Rather, only this specific amendment repealing the sunset clause would be preempted, and the Act as it currently stands would continue to be law. Further, it is doubtful whether repealing the sunset clause of the HPHCA would be regarded as substantively changing the Act because the repeal would not change any substantive rights or powers. In fact, courts have generally characterized sunset dates as procedural rather than substantive portions of laws.

"Therefore, it makes sense for us to move forward with this bill to ensure that the HPHCA continues to benefit Hawaii's residents. For these reasons, I stand in support of this bill."

Representative Yamane also submitted the following testimony:



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

**ON THE FOLLOWING MEASURE:**

H.B. NO. 1134, H.D. 1, RELATING TO PREPAID HEALTH CARE.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**DATE:** Wednesday, March 2, 2011 **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** WRITTEN COMMENTS ONLY. For more information, call Gary S. Ige, Deputy Attorney General at 586-1450

**Chair Herkes and Members of the Committee:**

The Attorney General submitted testimony to this Committee on February 23, 2011, indicating opposition to the bill because of serious legal concerns. We resubmit testimony to you now to clarify our position on this bill.

Specifically, the Attorney General is not opposed to the intent of the bill, but continues to have legal concerns that the proposed repeal would likely be preempted by the Employee Retirement Income and Security Act ("ERISA"). However, since there is no case on point, should the repeal be challenged on preemption grounds, the outcome cannot be predicted with certainty.

The bill amends chapter 393, Hawaii Revised Statutes (HRS), also known as the Hawaii Prepaid Health Care Act ("PHCA"), by repealing chapter 393, part V, HRS (part V consists of section 393-51, HRS, the termination provision quoted below). Section 393-51, HRS, provides that the "chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that



Testimony of the Department of the Attorney General  
Twenty-Sixth Legislature, 2011  
Page 2 of 4

provides for mandatory prepaid health care for the people of Hawaii." The bill will also repeal Act 99, passed by the Legislature in 1994, which repeals chapter 393, part V, HRS, and which becomes effective "upon the effective date of any federal act permitting the amendment of the Hawaii Prepaid Health Care Act." We note that to date, no such amendment has been enacted by Congress.

We recognize that failing to take any action regarding the termination provision could result in the eventual repeal of the entire PHCA and that this bill is an attempt to address that concern. Nonetheless, we believe that the amendments made by the bill would likely be preempted by ERISA. ERISA regulates pension and benefit plans and establishes standards for the administration of such plans. ERISA has a sweeping preemption provision that provides in relevant part that ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C.A. § 1144(a). The subsection, in full, provides as follows:

Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(b) of this title. This section shall take effect on January 1, 1975.

There is a narrow exemption from ERISA preemption for the Hawaii PHCA. 29 U.S.C.A. § 1144(b)(5)(A) provides as follows:

Except as provided in subparagraph (B), subsection (a) of this section shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

That exemption applies only to the PHCA as it existed on September 2, 1974. 29 U.S.C.A. § 1144(b)(5)(B)(ii) provides as follows:

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Nothing in this subparagraph (A) shall be construed to exempt from subsection (a) of this section--

(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

In other words, the ERISA preemption provision applies to any amendments to the PHCA "to the extent it provides for more than the effective administration" of the PHCA. Any substantive amendment to the PHCA would go beyond the allowable exemption of amendments only for the "effective administration" of the PHCA and would, therefore, be subject to preemption. *Council of Hawaii Hotels v. Aagsalud*, 594 F. Supp. 449 (D. Haw. 1984) (amendment to require plans negotiated through collective bargaining to contain the required minimum benefits constituted a substantive change and was preempted).

The plain meaning of the word "administration" is the "performance of executive duties : management." *Merriam-Webster's Collegiate Dictionary* 15 (10<sup>th</sup> ed. 1993). In *Council of Hawaii Hotels v. Aagsalud*, supra, the court commented on the meaning of "effective administration" as follows:

Finally, the legislative history of the ERISA Amendment indicates that Congress intended the term "effective administration" to be construed strictly. It is clear that Congress intended to adhere to *Standard Oil*, preempting the Act's drug and alcohol abuse treatment provisions. State officials had lobbied to restore state regulation of prepaid health care plans, and the accommodation reached was that the Hawaii Act would be given effect, but only as to its substantive provisions in effect on September 2, 1974. Any subsequently enacted substantive change would succumb to "the broad scope of ERISA preemption." The ERISA Amendment thus was to "operate only as a narrow exception." *Id.* At 455 (footnotes omitted).

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The Attorney General believes that the repeal of the termination provision of the PHCA, section 393-51, HRS, as proposed in this bill, is not an amendment that provides for the effective administration of the PHCA because it does not merely address the performance of executive duties, but goes to the substance of whether Hawaii's PHCA continues in force or not. Therefore, we believe the amendment would likely be subject to preemption by ERISA.

In addition, the Attorney General believes that should the Legislature pass this bill and repeal section 393-51, HRS, and a court subsequently determines that the repeal is preempted by ERISA, such a ruling would not affect the Hawaii Prepaid Health Care Act as it exists today; only this amendment would be preempted, and the balance of the Act would remain.

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Representative Pine rose to respond, stating:

"Just in rebuttal. And again, confusion. If I was just watching us, so we all know what that means when someone says that you're not opposed to the intent. I'll say it right now. The Republican Caucus is definitely not opposed to the intent of this piece of legislation. But we're really worried. We're really, really, really worried. We should never pass anything so significant, so monumental as this when someone can only say, 'Well, I support your intent.'"

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? I broker health insurance," and the Chair ruled, "no conflict."

Representative Takai then stood in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Takai's written remarks are as follows:

"Mr. Speaker, I rise in support of this measure. Residents in Hawaii have benefitted from expanded healthcare coverage under a unique and successful employer health care mandate that has been in place for more than 30 years—the Prepaid Health Care Act (PHCA).

"The 1974 legislation of Act 210 effective January 1, 1975, provided the working uninsured with quality mandated health care benefits and maintained the prevailing standards for those employees already fortunate to have medical coverage.

"The law requires employers to insure their workers upon attainment of eligibility. The overall impact of the law since 1974 has been the

maintenance of relatively robust private benefit plans, low rates of uninsured, and some of the lowest premiums in the country.

"In anticipation of national healthcare reform that would presumably provide greater federal protections, Act 210 included a sunset provision to be implemented upon the effective date of the federal legislation.

"Subsequently, discussions on the implementation and costs of a national health program raised the question as to whether the high quality of medical benefits enjoyed by Hawaii's workers was in jeopardy.

"In 1994, the Prepaid Health Care Act was amended with Act 99 repealing the statute's termination provision. However, the repeal was made subject to a requisite amendment of the federal Employee Retirement Income Security Act of 1974 (ERISA) that would allow for the "substantive" change to the Hawaii law. As of yet, there have been no federal legislation to amend ERISA.

"While Hawaii suffers from some of the same issues relative to access, quality and cost as other states across the country, the PHCA has been the backbone over the years ensuring system stability and moderation of problems in healthcare delivery and finance.

"Although the current system has been preserved through legislative language included by Hawaii's Congressional Delegation in the federal health care reform law, the Affordable Care Act (ACA), it may unintentionally be jeopardized without further federal- and state-level legislative fixes prior to the implementation of a newly mandated health insurance exchange in 2014.

"Work to create Hawaii's health exchange, through which individuals may shop for an appropriate health plan, has just begun.

"But, while the states scramble to address the ACA, the shift in the balance of power in Washington confounds those efforts and confuses what health care reform eventually will cover.

"Hawaii's prepaid system is established and proven to be effective.

"There must be a coordination of PCHA and the ACA, specifically with respect as to how PCHA will work in tandem with the exchange.

"Resolution of this uncertainty would ensure that Hawaii's businesses, insurers, and residents understand the way in which they should invest their appreciable yet limited resources, particularly if they must radically change the way healthcare is done in Hawaii.

"The provisions of this measure offer a simple, single step to maintain the premium healthcare that the majority of people in Hawaii already enjoy."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1134, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no.

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

H.B. No. 1134, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 737) recommending that H.B. No. 1101, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1101, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Fontaine offered Floor Amendment No. 3, amending H.B. No. 1101, HD 2, as follows:

"SECTION 1. House Bill 1101 House Draft 2 is amended by adding a new section 1, to read as follows:

" SECTION 1. Section 249-31, Hawaii Revised Statutes, is amended to read as follows:

"§249-31 State registration fee. (a) All vehicles and motor vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in sections 249-4 and 249-6, shall be subject to a [~~\$25~~] \$45 annual vehicle registration fee. The fee shall be paid each year together with all other taxes and fees levied by this chapter on a staggered basis as established by each county as authorized by section 286-51, and the state registration for that county shall likewise be staggered so that the state registration fee is due and payable at the same time and shall be collected together with the county fee. The state registration fee shall be deemed delinquent if not paid with the county registration fee. The respective counties shall collect this fee together with the vehicle registration tax collected for the county and shall transfer the moneys collected under this section to the State.

b) From each annual motor vehicle registration fee, the director shall deposit [~~\$20~~] \$40 into the state highway fund and \$5 into the emergency medical services special fund."

(c) Except as provided in this section, and notwithstanding any other law to the contrary, all fees collected under §249-31 and deposited into the state highway fund and emergency medical services special fund shall only be used for the purposes in §248-9 and §321-234 shall not be transferred to the General Fund or any other fund except for the purpose allowed in §248-9 (3)."

At 10:11 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:11 o'clock a.m.

Representative Fontaine moved that Floor Amendment No. 3 be adopted, seconded by Representative Pine.

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

"Yes, in support of the amendment, Mr. Speaker. Just to clarify. What we're doing it's just a technical thing. Something that is very important to our Caucus. We would like to add this paragraph to this bill: Except as provided in this section and not withstanding any other law to the contrary, all fees collected under 249-31 and deposited into the State Highway Fund and Emergency Medical Services Special Fund shall only be used for the purposes of the Highway Fund and the Medical Services Special Fund and shall not be transferred to the general fund or any other fund except for this purpose.

"Let me just give you some background, Mr. Speaker. For me personally, this is a very important issue. I never thought I would be a politician. I was supposed to be in broadcast journalism right now. But one day many years ago, I believe it was 2003, I was stuck on what they call Fort Weaver Road in Ewa Beach. This little seven-mile road used to take me 45 minutes just to get from my house to the top of the freeway. And I happened to also be working here, Mr. Speaker. And I realized that in 2003, and almost every year for almost a decade, that this Legislature raided the Highway Fund.

"So what did that mean to people in areas like Ewa Beach where traffic was at its worst? It means that we didn't help the people. Just like the people of Ewa Beach were abandoned last Friday during the power outage. We even back then, this Legislature knew that we were going to have a major traffic crisis in 1993 after all the homes that were approved there. But they didn't give us the roads that we needed back then. Even though we had the money, we had lots of money. For over a decade we raided

over \$144 million from the same Fund that we're trying to fund today in many different bills by fee increases and tax increases.

"Back then, that meant a lot more than \$144 million. Because during this time, this decade of the raid, we had this amazing matching fund program with the federal government. We had 1 to 4 matching funds from the federal government. Which means that technically this Legislature really raided over a half a billion dollars from the Highway Fund because of the money that was in there.

"Mr. Speaker, this particular bill is how we will be helping the Department of Transportation according to this Legislature's feelings on this issue. The Department of Transportation says that it's short \$22.9 million this year. Wow. It really makes me think that if back then, if this Legislature, the same seats that we're sitting in now, if those people who voted every year for almost the decade to steal money from this Fund, we wouldn't have to be doing what we're doing today. This basically almost doubles the State registration fee for our motor vehicles.

"I have to tell you, there are a lot of people in my district in Ewa Beach that are really suffering right now. Because of the economy, they have lost their jobs. We have one of the highest mortgage foreclosures in the State, Mr. Speaker. Everything's going up. Gas is going up. And we have to travel some of the farthest distances just to get to town. And so to them, even a dollar is going to affect their families.

"Because right now, some families tell me, 'Okay. Well this month we decided we're going to pay our electric bill. Next month instead, we're going to pay the water bill. Next month instead, we're going to pay our car insurance.' And so that's how they're living right now.

"So this is number one of the many fee increases that will be imposed on people in the State of Hawaii, and this would especially hurt my community because they definitely rely on their cars to get to work, Mr. Speaker. And so it basically is just saying a commitment from us that we recognize what that Legislature did for a decade, that were sitting in our very seats, that we will be different. We will make a commitment to the people of Hawaii that we will never, ever, ever raid this Fund to pay for things in the general fund ever again. So that we will never affect your pocket books like we're doing today."

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

"Yes, thank you very much, Mr. Speaker. Members of the House, I wish to speak in opposition to the amendment. First of all I want to, in an ironic way, I want thank the author of the amendment in that he acknowledges that we need the funds. And as far as the request for the increase, we are in agreement with the author of the amendment and for that I wish to thank them.

"With regard to the Highway Fund, and a lot of that happened during my watch as the Speaker, I'm basically opposed to raiding the Highway Fund, but this was not done in a cavalier fashion. What we did before the raid was made, the Finance Chairman and Committee asked the DOT if there were sufficient funds for the transportation plan of highway improvement and repairs. Was it sufficient? And they acknowledged for every one of the projects, they said that this would be a surplus of funds. Based on those discussions with the then-Highway Deputy and the then-Transportation Chair we went along, and we agreed to the transferring of the funds from the Highway Fund to the general fund.

"Now for some historic reason it must be acknowledged by all the Members here, including my friends across the aisle, that we've had difficulty in balancing the budget from the days before I was the Speaker. I've always been of the opinion that we really can't support all the programs that we have. All the different departments. We've been running, trying to catch up all these years. Certainly during my years as Speaker of the House.

"And I would say because of that, because of the need to provide for health services, education services, social services, and all the needs that we have in the community, we were forced to balance the budget and to at

times look for funds other than the general fund. And in some respect, we must all take some credit for that, including the community. They've been opposed to raising the excise tax all these years so the Legislature, in the need to balance the budget, needed to look for funds. As the most recent poll by Omnitrack stated, yes they're opposed to the excise tax increase. However, they want the continuum of services that they have. There is a contradiction there.

"What we need in this Body, including the Minority, is leadership so that we can provide either the needed cuts to balance the budget, or to raise the revenue that is needed for the services that the people want. And the poll has indicated that they want to continue the services and the Legislature under the leadership of the Speaker is duty bound to provide for the needs of this community.

"So every raid that has been made then, and is being made now, has not been done in a cavalier fashion. I think the community must be aware of this. Again, Mr. Speaker, thank you very much."

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

"Thank you, Mr. Speaker. I rise with very strong reservations. I just want to briefly rebut my neighboring colleague from Ewa Beach. I think what was not mentioned is that this Body has been very generous to our districts. Within the seven years that I've been here in this House, this Body, including the Senate, has appropriated funds for the widening of Fort Weaver Road, the completion of Kapolei Parkway, and the completion of North-South Road. It gave me great pleasure, Mr. Speaker, to give a tour of Kapolei Parkway and the North-South Road to our Whip. It's beautiful. And we owe that to this Body and I think that needs to be mentioned.

"And let's not forget. This Body also voted for the funding of the rail. Our district got a lion's share of the funding, Mr. Speaker, and I will never forget that. I want to thank all of you for doing that.

"My only reservation is that we are still looking at funding for the Leeward Bikeway. So let's not forget that. Thank you everybody, for your help."

Representative Pine rose to respond, stating:

"In rebuttal. This is where I disagree with my colleague from Ewa. This Body has not been generous to us. And the reason why I believe that is everyone's sitting here in your districts. When you had new homes, you got a road right away. Well most of you, or most of those people representing different communities, but we didn't. We didn't. That is not generosity. I am not fooled that that is not generosity. I could say other words that my community would like to say what happened to us.

"So it's like saying, all we want is to be treated equally. What we got was not generosity. We had equal treatment in terms of funding compared to what we deserved, but we got inequality when it came to finally spending those funds in a timely manner. The same way that it was done in Hawaii Kai and Kailua and many other places across the State.

"One of the reasons I'm here is to make sure that the people of Ewa Beach are never treated as substandard, and I will never say that this Body has been generous to us by saying, 'Oh you eventually treated us equally.'

"So, Mr. Speaker, back to the amendment. It is really just making the commitment in our hearts. As the former Speaker Emeritus said, Mr. Speaker, 'We saw this all coming.' I see this coming again. Not making this commitment, future Legislatures, they're going to see that same pot of money that was in there the decade where they raided it every year, and they're going to say, 'Oh we've got to go pay for this program now because it's kind of my hot button issue. I promised the people I would give it to them.'

"I actually agree with a lot of the things that the Speaker Emeritus said and I'm very excited and happy that we're having this conversation today because our credit card bill is coming up, Mr. Speaker, and we're getting to

the point where we can't make them the minimum monthly payment anymore. We as leaders, we as a family, we as a community, we need to start being honest to our friends, and our community. And those are the hardest conversations to have.

"We should continue these conversations and say what are the core functions of government? Let's go back to the old days. Maybe the Ariyoshi days. Maybe the Waihee days. I don't know. When we first became a State, what did we believe were our core functions? I see my time is up because I'm reading this little red thing here, Mr. Speaker. Thank you."

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

"Yes, Mr. Speaker. I stand in support of the amendment. You know, this amendment is that basically, the bottom line comes down to fiscal responsibility and accountability. That's why I introduced this amendment, and others today, in saying that if we are going to raise fees, and taxes, and other things, that we actually tell the constituents that that's what we're going to use it for. And that we're not going to say, 'Well, we may use it there so please, please try to swallow this pill,' as the Representative from Ewa Beach has explained about the fiscal hard times that many people are going through.

"I think that's what we need to look at. I think if we say we support this amendment, we're saying we're supporting using the money for what we're saying. If you vote against this amendment, then basically what you're saying is, 'Well, we may use it for that. But we may come up with something else that we need the money for, so we may take it and use it for that purpose,' and that's not what the people in the State of Hawaii elected us to do.

"They elected us to be honest and forthright in how we spend their money. It's not our money. It's their money. And if we're going to take their money and say we're going to use it to repair highways, then that's what we should be doing. We shouldn't be going and using it for other purposes. Thank you."

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

"Thank you very much, Mr. Speaker. In opposition. First to correct some inaccuracies that were stated on the Floor here. I've been here in this Chamber with all of you since 2006, and contrary to the memory of my colleague from the West Side, there has been no legislation to transfer the funds. Indeed the last time there was legislation to do this was in 2004 which was never effectuated. The last transfer from the Special Highway Fund, Mr. Speaker, to the general fund was in 2002 which to Representatives like myself, was a long, long time ago. BMT, Before My Time.

"But I will also say this, while it's well intentioned, I appreciate the Representative from South Maui in doing this because I support the underlying concept of the Special Highway Fund needing to be protected. But if you look at this last part of his Floor Amendment, subsection (c) says, 'except for 248-9.' If you look at 248-9, it gives the authority to reimburse the general fund from the Special Highway Fund for general obligation bonds. Not to mention the fact if you go to subsection (b) of the very same 248-9, it gives the Director of Transportation the authority to transfer funding from the Special Highway Fund as long as certain criteria are met.

"And as far as jeopardizing federal funding, one thing that was clear in the existing law when the transfers were made and contemplated is that it cannot include encumbered funds. That's important to note because that is the funding that the federal government matches through the State Transportation Improvement Plan.

"So the Director of Transportation, even if we were to pass this measure, this legislation is not binding on future Legislatures so any Body can come back in the future and throw this out the window. But the fact of the matter is even with this adopted, 248-9 allows for the transfer of Special Highway

Funds to the general fund both through subsection (b) and clause number 2.

"So I appreciate what the introducer is doing and I support the underlying concept. But the fact is while well intended, I think that it is first of all not binding on future legislatures, and number two, 248-9 which is included in the amendment basically allows for this transfer to take place if certain conditions are met. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in favor of the motion. First, I'd like to thank Speaker Emeritus for his wise and longitudinal view. He said that even before he was Speaker, we haven't made the budget balance. But then he said, and we may not put it together, but I'm going to put it together for you because we've grown government too much. And that's why we raid funds.

"Let's go back to the basic main motion and remind people that this is an 80% increase in the vehicle registration. The people are going to be paying 80% more so we can fix the roads.

"Now you may know my district is Hawaii Kai. It has the reputation of having first-world roads. I'm here to tell you that I'm getting a lot of flack that we're having a third-world road system in Hawaii Kai. In terms of sharing the pain and all the things that supposedly don't happen there, they are happening there.

"In fact it reminds of the adage that I learned while in Uganda as a UN worker. The question is, how do you tell if somebody's drunk when they're coming at you at night with their headlights going straight for you? The answer is, those are the drunks. Because if the people are sober, they're going and missing the potholes. That's the way people in this State are starting to drive. They're starting to drive to miss the potholes and they're going back and forth.

"I think this is not about equity. It's about doing what we say we're going to do. Making the commitment that we're going to fix the roads. No district is exempted from this. No Representative is exempt from being accountable for this. So if we put the money in, let's not take it out. And there are other bills that are going to come onto the Floor today where we're actually sucking, siphoning, and otherwise removing funds. So we're just simply saying that if we put the funds in, let's tell the people we're going to fix the roads with the money that we're otherwise increasing their taxes for. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. I'd just like to point out there's a technical flaw in the draft of this amendment. If we were to adopt it as is being proposed, it'll have serious consequences for the Director of Transportation. It will take away his discretion. Thank you."

The motion that Floor Amendment No. 3, amending H.B. No. 1101, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Ichiyama, McKelvey and Souki voting no, and with Representative Cabanilla being excused.

(Main Motion)

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. This bill proposes to increase the motor vehicle registration fee from \$25 to \$45, the proceeds going into the State Highway Fund. The State Department of Transportation (DOT) relies on the Highway Fund to implement its strategic plan for highway

improvements across our islands. It is essential for the safety of our residents and visitors that our roads, bridges and sidewalks are maintained in good condition.

"Many of my constituents have expressed concerns about the numerous potholes on the on-ramp to the H-1 by Mapunapuna. We use this on-ramp daily, often swerving from side to side to protect our cars, trucks and vans. The Director of DOT testified that due to insufficient amounts in the Highway Fund, they have extended the repaving schedule of our roads to every 14 years instead of the recommended 10 years. DOT is focused on repair and maintenance, not new projects, as we cannot sustain the current system. Ideally we should be spending \$86,000,000 each year on maintenance for our highway system, but the Highway Fund does not even come close to that amount. Having a low balance also negatively affects our ability to qualify for federal matching money for highway projects.

"I understand the financial pinch that many of our local families are feeling, but this is a demand that we cannot ignore. A failure to maintain our highways results in reduced road space, deteriorating infrastructure, increased accidents and increased liability. Thank you, Mr. Speaker."

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

"In opposition, and I would like all the things I said for my amendment to be applied to this measure," and the Chair "so ordered." (By reference only.)

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:

"Mr. Speaker, I rise in opposition of H.B. 1101, which increases the State Motor Vehicle Registration Fee by \$20, raising it to \$45 annually, and deposits the money into State Highway Fund. Tax and fee increases slated for Hawaii will make the cost of living in Hawaii unbearable for our citizens and hurt our families, as well as employers' ability to exploit jobs at such crucial times. We simply cannot afford this or any other measure that would increase fees or taxes on our communities."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1101, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," passed Third Reading by a vote of 41 ayes to 9 noes, with Representatives Ching, Cullen, Fontaine, Har, Johanson, C. Lee, Pine, Thielen and Ward voting no, and with Representative Cabanilla being excused.

At 10:34 o'clock a.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1101, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 739) recommending that H.B. No. 1102, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1102, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Fontaine offered Floor Amendment No. 4, amending H.B. No. 1102, HD 2, as follows:

"SECTION 1. House Bill 1101 House Draft 2 is amended by adding a new section 1, to read as follows:

SECTION 1. Section 249-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All vehicles and motor vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in sections ~~[249-3 to]~~ 249-4, 249-5.5, 249-6, and 249-6.5, in addition to all other fees and taxes levied by this chapter, shall be subject to an annual state vehicle weight tax. The tax shall be levied by the county director of finance at the rate of  ~~[.75]~~ 1.75 cents a pound according to the net weight of each vehicle as the "net weight" is defined in section 249-1 up to and including four thousand pounds net weight; vehicles over four thousand pounds and up to and including seven thousand pounds net weight shall be taxed at the rate of  ~~[1.00 cent]~~ 2 cents a pound; vehicles over seven thousand pounds and up to and including ten thousand pounds net weight shall be taxed at the rate of  ~~[1.25]~~ 2.25 cents a pound; vehicles over ten thousand pounds net weight shall be taxed at a flat rate of  ~~[\$150.]~~ \$300."

(b) The tax shall become due and payable in each year together with all other taxes and fees levied by this chapter on a staggered basis as established by each county as authorized by section 286-51, the state vehicle weight tax shall likewise be staggered so that the state vehicle weight tax is collected together with the county fee. The state vehicle weight tax shall be deemed delinquent if not paid with the county registration fee. The tax shall be paid by the owner of each vehicle to the director of finance of the county in which the vehicle is registered and shall be collected by the director of finance of such county together with all other fees and taxes levied by this chapter from the owner of each vehicle and motor vehicle registered in the county.

By the fifteenth day of the month following the month in which taxes under this section are collected, the director of finance of each county shall transmit the taxes collected to the state director of finance for deposit into the state highway fund.

(c) The exemptions provided by sections 249-3 to 249-6 shall apply to this section. The provisions for refunds, and taxes for fraction of years for vehicles removed from or brought into the State and for junked vehicles, contained in sections 249-3 and 249-5 shall apply to the tax levied by this section.

(d) If it is shown to the satisfaction of the department of transportation of the State, based upon proper records and from such other evidence as the department of transportation may require, that any vehicle with a net vehicle weight of six thousand pounds or over is used for agricultural purposes the owner thereof may obtain a refund of all taxes thereon imposed by this section. The department of transportation shall prescribe rules to administer such refunds.

(e) The counties shall be reimbursed the incremental costs incurred in the collection and administration of taxes and fees imposed under section 249-31 and this section; the amount of reimbursement shall be determined by the director of transportation. "

(f) Except as provided in this section, and notwithstanding any other law to the contrary all taxes collected under §249-33 and deposited into the state highway fund shall only be used for the purposes in §248-9 and shall not be transferred to the General Fund or any other fund except for the purposes allowed in §248-9 (3)."

Representative Fontaine moved that Floor Amendment No. 4 be adopted, seconded by Representative Pine.

At 10:35 o'clock a.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

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

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

"Yes, Mr. Speaker. Thank you so much. I am standing in support of this amendment. And again we are raising another fee, another tax to raise money for the State Highway Fund. What this amendment does is it adds this subsection: Except as provided in this section and not withstanding any other law to the contrary, all taxes collected under 249-33 and deposited into the State Highway Fund shall only be used for the purposes

in 248-9 and shall not be transferred to the general fund or any other fund except for the purposes allowed in 248-9.

"Mr. Speaker, I spoke two times too fast, and I could not rebut the Members who most likely have the same objections because it is the same paragraph that was inserted into the previous amendment.

"There is not a technical flaw, Mr. Speaker. The Director of the Department of Transportation still has within his perusal within the Highway Fund, to actually spend the money on highways. So if we're saying, just that comment, Mr. Speaker, concerns me. Because we're saying, 'No, no, no, no. Even though we are taxing people, increasing fees on them, because we are telling those people that we're raising this money to give you roads.' And we are saying, 'Wait, wait, wait. We don't want him to have the discretion to raid his own fund and to put it into the general fund.' That's not a technical flaw. That's an opinion.

"And my opinion is that we have done some horrible things to the people of Hawaii. And again, we're just making a commitment to them. As we know, you're down and you're hurting financially in these times. Well what this Legislature is asking my people to do is, 'I need a little more from you or else I'm not going to fix that pothole.' So if I'm going to ask my constituents, then I'm going to commit to them and look them in the eye and say, 'You know what I promise you? I will never raid this fund for purposes other than it was intended for. I make that commitment to you today.'

"That of course, is opinion. As a leader, as I feel it, I need to have that commitment to the people if I'm going to take any more from them.

"And I just want to explain what 248-9 means. The speaker from Maui who I just enjoy debating on this Floor so much. What that means is that allows the Director of the Department of Transportation to transfer funds into the general fund, so he can get general obligation bonds to fund highway projects. I support that, and that's why this is in here, Mr. Speaker. Because that's the only way he can get the general obligation funds, then I support that.

"And again, Mr. Speaker, this is just a statement of commitment at the beginning of this legislative session today. Because we are raiding a lot of funds to put money in the general fund today. We're raiding a lot of taxes, hurting people by raising taxes in these economic times, because we are telling them that we need them for roads. We need them for electricity. We need them for the homeless. We need them for education.

"So this is our first commitment as a Minority Caucus, Mr. Speaker. To say if we take any more from you today, you have our word and commitment, Mr. Speaker, that we are going to stand by you and that we know that you sacrificed tremendously to give us this money today, Mr. Speaker. So we are going to make that extraordinary commitment.

"Not binding future legislators, but making a statement on this day and this time, Mr. Speaker, that we will change government forever in this State. That we will actually use the money that we're taking from people for the intended purpose that we committed it too. And that is why I introduced this same amendment for this particular bill, Mr. Speaker. Mahalo."

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

"Thank you, Mr. Speaker. In opposition. And again, my opposition is not on the underlying principle of keeping the Special Highway Fund intact. Rather it's that while well-intentioned, I believe that the Floor Amendment misses the mark. It seems to me that the whole point of this is to make an undeniable pact with the citizens of Hawaii that yes, all of the money in there, if we pass this, will go in a Special Highway Fund and will go to projects.

"However, by having 248-9, and while the good Representative from Ewa Beach did touch upon subsection 3, you need to look at subsection 4(b), which does give the Director of Transportation that discretion to make that transfer of funds at any time.

"So what if the Department of Transportation and the State encounters a very serious situation, makes that determination and transfer under 248-9, 4(b)? That is a transfer from the Special Highway Fund into something else. So how could, with that exception being in there, this be a pact to the people of Hawaii saying if all the money going in there, if we adopt this, that this will definitely never be a transfer from the Special Highway Fund, because there still could be.

"And my point being, Mr. Speaker, and again there's nothing that is passed today that will tell future Legislatures either two years from now, four, or six that this will definitely be the case, because they can undo it.

"I applaud the Representative from South Maui for bringing this issue forward. I stand with him in trying to make sure this Special Highway Fund goes to what it's intended for. But I think that as far as this being a binding line in the sand that if we pass this, then there will be no transfers, is not 100% accurate. And I think that's important to continue to note, and that's why I stand in opposition.

"It's not because of the intent behind it. It's a very well-intended proposal. I think form and function has interfered with the overall thing, and that the end result will not be what is being discussed on this Floor. It will not be ironclad in law that will prohibit transfers from the Special Highway Fund, because that ability will still exist under 248-9, 4(b). Not to mention of course 248-9, 3. Thank you very much, Mr. Speaker."

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

"Yes, Mr. Speaker. I stand in support of the measure and I would like to have the words from the Representative from Ewa Beach entered as my own, for the sake of time," and the Chair "so ordered." (By reference only.)

Representative Pine rose to respond, stating:

"Yes, just additional comments in support of the amendment, Mr. Speaker. I just want to explain what this particular bill does. The underlying bill. Just so that we can see the context as we continue to increase taxes and fees on people.

"So in addition to what you're paying for your car today, it could range from three, four, five hundred dollars, six hundred dollars depending on what kind of car you have. This will, for those cars that are below or under 10,000 pounds, it'll increase your car registration fee by a hundred dollars. If it's over 10,000 pounds, then it will increase your fees by three hundred dollars.

"And I just would like to say that, I guess I just agree to disagree with the Representative from Maui and how we're reading the legislation, Mr. Speaker. I personally see no problem in transferring funds to the general fund if it is intended to help to build roads, because that is the same concept and commitment that I am trying to make with us today. And so it is for those reasons, Mr. Speaker, and on behalf of my community that are already paying a lot today on gas, I vote in support of this amendment, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm in opposition. It's the same technical error in this amendment as well. If I could have my comments from the previous Floor amendment inserted here as well. Thank you," and the Chair "so ordered." (By reference only.)

Representative McKelvey rose to respond, stating:

"Thank you, Mr. Speaker. Just a quick rebuttal. While that does address 248-9, Section 3, that still does not address 248-9, 4(b) which gives the Department of Transportation Director the discretion to make the transfer to the general fund if certain criteria are taken into consideration. Thank you, very much."

The motion that Floor Amendment No. 4, amending H.B. No. 1102, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE WEIGHT TAX," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Ichiyama and McKelvey voting no.

(Main Motion)

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

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

"Thank you, Mr. Speaker. In opposition. I think everyone thus far has eloquently pointed out the needs for improving our roadways and our highways, and I definitely agree with that as well. I think the one point that probably has not been fleshed out in a lot of our discussion thus far is just how this bill potentially, adversely impacts or exacerbates our already high cost of living. I just don't know if my constituents, because it's such a broadbased tax, can afford to shoulder that increase burden especially in these times.

"So while I don't necessarily disagree with the underlying premise of the bill to fund the Highway Fund, I guess this particular mechanism to do so, I just think is going to hurt most of the people in my district and is going to impact all of our constituents. And it is for those reasons that I'd like to oppose this measure, as well as insert additional written comments. Thank you."

Representative Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition. I think my colleagues thus far have pointed out the need for improving our road ways and highways and I definitely agree with that. I think one point that has not been fleshed out in our discussion thus far is how this bill potentially exacerbates our already high cost of living. I do not know that my constituents can afford to shoulder this increased burden in these times, especially because of the broad-based nature of this tax.

"So while I don't disagree with the underlying premise of this bill to fund the State highway fund, I think this particular mechanism is going to hurt most of the people in my district and impact many of our constituents. It is for this reason that I oppose this measure."

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

"Thank you, Mr. Speaker. I rise in opposition to the main motion. Mr. Speaker, just as a reminder, this adds \$100 to the registration fee. And the bill before added \$20 to the weight tax. Or is it *vice versa*? One way or the other, we're adding \$120 at least to everybody who's driving. We've got about a million cars and this is just what the State's going to do in terms of fees. Add what the City and County is going to do, and add what the Middle East is going to do in terms of gas prices.

"People are not going to be very happy with this bill, Mr. Speaker. They're not going to be happy because of the cost of living increases and quite frankly, because as the Speaker Emeritus said, we don't have a very good track record as money managers. We always run short. We always tax. And we always spend. This is an attempt to tax again those people who drive, and everybody drives.

"This is very, very essential and quite frankly, Mr. Speaker, this is only one of 26 taxes and fees which we will put forward on this Floor today. One of 26 taxes and fees valued at \$500 million out of the pockets of the people of the State of Hawaii. That's the bigger picture. And I know I'm getting off the bill, but this \$120, \$140 bucks that we're going to put on the cars, let's look at the big picture at what we're doing to the people of Hawaii which already has the highest cost of living in the United States of America. I think that's worth contemplating what we are doing today, and what this First Crossover really means. Thank you."

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

"Thank you, Mr. Speaker. In opposition and I ask that the words from the Representative from Salt Lake be entered as my own, as well as the Minority Leader. Thank you, Mr. Speaker. I just did want to echo again the fact that so many people have been laid off and are looking for new jobs. So many people are looking to do something about their mortgages.

"And so I think that in Hawaii, where we don't really have an alternative in terms of some neighborhoods. Some of us are very lucky we have TheBus. But if the place of employment is near enough, it's not really that much of a problem. Perhaps some of the people in my district might not have that problem. But I'm thinking about everybody in this State. And if they're laid off, and it means I've got to go get a job that is very far away and I have kids, and I have two, three jobs, I just don't know how they're going to do it if the price of everything connected to the car, our mode of transportation, gas prices, etc. as was mentioned by the Minority Leader, how's that going to impact people who are trying to make a new start.

"So that's why I have to say that I have to be in opposition. Although I agree with the Representative from Aiea. I understand the intention of the bill. Thank you."

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. This bill proposes to slightly increase the motor vehicle weight tax, the proceeds going into the State Highway Fund. The State Department of Transportation (DOT) relies on the Highway Fund to implement its strategic plan for highway improvements across our islands. It is essential for the safety of our residents and visitors that our roads, bridges and sidewalks are maintained in good condition.

"Many of my constituents have expressed concerns about the numerous potholes on the on-ramp to the H-1 by Mapunapuna. We use this on-ramp daily, often swerving from side to side to protect our cars, trucks and vans. The Director of DOT testified that due to insufficient amounts in the Highway Fund, they have extended the repaving schedule of our roads to every 14 years instead of the recommended 10 years. DOT is focused on repair and maintenance, not new projects, as we cannot sustain the current system. Ideally we should be spending \$86,000,000 each year on maintenance for our highway system, but the Highway Fund does not even come close to that amount. Having a low balance also negatively affects our ability to qualify for federal matching money for highway projects.

"I understand the financial pinch that many of our local families are feeling, but this is a demand that we cannot ignore. A failure to maintain our highways results in reduced road space, deteriorating infrastructure, increased accidents and increased liability. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1102, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE WEIGHT TAX," passed Third Reading by a vote of 40 ayes to 10 noes, with Representatives Belatti, Ching, Fontaine, Johanson, C. Lee, Marumoto, Pine, Thielen, Ward and Wooley voting no, and with Representative Nishimoto being excused.

At 10:51 o'clock a.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1102, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 742) recommending that H.B. No. 1097, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1097, HD 1, pass Third Reading, seconded by Representative Evans.

At this time, Representative Fontaine offered Floor Amendment No. 5, amending H.B. No. 1097, HD 1, as follows:

"SECTION 1. House Bill 1097 House Draft 1 is amended by adding a new section 2, to read as follows:

SECTION 2. Section 251-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is levied and shall be assessed and collected each month a rental motor vehicle surcharge tax of [~~\$2 a day, except that for the period of September 1, 1999, to August 31, 2011, the tax shall be~~] \$3 a day, or any portion of a day that a rental motor vehicle is rented or leased. The rental motor vehicle surcharge tax shall be levied upon the lessor; provided that the tax shall not be levied on the lessor if:

- (1) The lessor is renting the vehicle to replace a vehicle of the lessee that is being repaired; and
  - (2) A record of the repair order for the vehicle is retained either by the lessor for two years for verification purposes or by a motor vehicle repair dealer for two years as provided in section 437B-16."
- (b) There is levied and shall be assessed and collected each month a tour vehicle surcharge tax of:

- (1) \$65 for each tour vehicle used or partially used during the month that falls into the over twenty-five passenger seat category; and
- (2) \$15 for each tour vehicle used or partially used during the month that falls into the eight to twenty-five passenger seat category.

The tour vehicle surcharge tax shall be levied upon the tour vehicle operator.

(c) Except as provided in this section, and notwithstanding any other law to the contrary all taxes collected under §251-2 and deposited into the state highway fund shall only be used for the purposes in §248-9 and shall not be transferred to the General Fund or any other fund except for purposes allowed in 248-9 (3)."

Representative Fontaine moved that Floor Amendment No. 5 be adopted, seconded by Representative Pine.

At 10:52 o'clock a.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:53 o'clock a.m.

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

"Thank you, Mr. Speaker. This basically is extending the Rental Motor Vehicle Surcharge Tax, which is supposed to expire. It keeps it at \$3 a day. We had raised that quite some time ago. And so it adds this section, Mr. Speaker: except as provided in this section and not withstanding any other law to the contrary, all taxes collected under 252 and deposited into the State Highway Fund shall only be used for the purpose of 248-9 and shall not be transferred to the general fund or any other fund except for the purposes allowed in 248-9.

"Mr. Speaker, again since we are committing to keep this fee raised for the Motor Vehicle Surcharge Tax, I think we should make a commitment, Mr. Speaker. A commitment that we're actually going to use the money for what it's intended for.

"And just since I could not stand a third time on a previous debate, I do want to clarify that all these bills address transferring money to the general

fund, only for the particular purpose to use, to ensure, to help that Fund to do the actions that they must take, or the Fund Directors must take, to ensure that that Department is wholly for the purpose that it was intended for. Thank you."

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

"Yes, Mr. Speaker. I stand in support of this amendment. I will be brief. Again, it's about accountability, showing the people that we want to be accountable. I think it's worthwhile doing. If we have to tweak it, we'll tweak it, but we need to do something to show accountability to the people that we serve. Thank you."

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

"Thank you, Mr. Speaker. In opposition, and I'd just like to note that this amendment also has the same technical flaw that we've seen in the past two floor amendments. If I could have my comments from those inserted here as well. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you. In opposition, Mr. Speaker. And just for the sake of time which is fleeting, I'd just like my comments on the last measure entered into the record for this measure. And again, I just want to say that I do appreciate the Representative from South Maui bringing this forward because I believe that we are of like mind as far as trying to make sure that the money that goes in there is expended for the necessary projects. I just don't think this is the way we're going to get there. Thank you."

Representative Pine rose to respond, stating:

"My final comments on these amendments, Mr. Speaker. And then we can move on. Again, there's no technical flaw in this bill, Mr. Speaker. It is a statement. And if someone wants to say that there is a technical flaw in a statement of our commitment to the people of Hawaii, that our word is true, that we can look you in the eye and say, Mr. Speaker, 'We're going to tax you to raise funds for the Highway Fund and we're going to only ensure that these moneys, whether it's transferred into the general fund to only be used for that purpose,' Mr. Speaker. That's only what it's allowed to do when you transfer funds. For the purpose of helping this Fund and to expand our highways and use this money for the intended purpose.

"Mr. Speaker. I guess I just disagree with people's opinion on this Floor. I see no harm in making a commitment to the people of Hawaii, giving them my word, and then putting it in writing for the world to see."

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

"In opposition. As stated by the Representative from Lahaina, there's nothing preventing future Legislatures from changing it. But also in rebuttal to some of the comments made by the Representative from Ewa Beach on past raids. Just as a reminder to Members. The general fund revenues used to go into the Highway Fund. Thank you."

Representative Souki rose, stating:

"Yes, Mr. Speaker. I want to speak in favor of this measure. I think the Members should be aware of why. I'm sorry. Are we are speaking to the amendment?"

At 10:58 o'clock a.m. Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:58 o'clock a.m.

Representative Souki then stood in opposition to the proposed floor amendment, stating:



"Yes, Mr. Speaker. A Freudian slip maybe. And I wish to speak in opposition to the amendment. I just want to alert the Members that the purpose for this increase in the weight tax and the registration surcharge, all the revenue that we're going to be getting from these measures is to provide for approximately \$800 million in new highways, and repairs and maintenance for bridges and roads. All of that is badly needed and has been neglected in great part during these last eight years.

"Members should also be aware that even with the last Administration, they came out with the Highway Modernization Plan which in some ways was even more draconian than what we have now because that also included an increase in the gasoline tax. So that portion has been taken out, the increase in gasoline tax, in view of trying to be a little bit more moderate. But again, this will provide for \$800 million in highway and bridge improvements. Thank you, very much."

Representative M. Lee rose in opposition to the proposed floor amendment and asked that the remarks of Representative Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion that Floor Amendment No. 5, amending H.B. No. 1097, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Chong, Ichiyama, M. Lee, McKelvey and Souki voting no, and with Representative Wooley being excused.

(Main Motion)

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

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

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

"Yes, Mr. Speaker. I stand in opposition. I think the intention of this was that we increase the surcharge tax on rental cars and that somehow or another, the tourists are paying for this. But in reality, this also affects businesses on our Neighbor Islands who must come to Honolulu to do business.

"And I have personally felt that even from last year when this went into effect, at how much my rental car cost went up to come over here to do business. And so when we look at this, this has a far-reaching effect of not only affecting visitors who come here, but also Neighbor Island businesses and families who travel to Oahu either for business, or for pleasure. We are asking them to pay this additional fee.

"So I think we have to be really cognizant of that. We did it for awhile. I say, let's let it sunset and go away, and take up the issue maybe next year when we can look at it again. Thank you."

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

"Mr. Speaker, I rise in opposition to the main motion. Mr. Speaker, this bill actually codifies our broken promise. In 1999 we said we're going to do surcharge, but it's only temporary. And now 12 years later, we've broken the promise. We know what broken promises are in Hawaii, about so many things from land use, to taxes, etc. How are we going to maintain our trust with the people of Hawaii? They have a trust in us. That's why they elect us. We're going to do the right thing. We're going to do what benefits the State and all the people.

"So this codifies what otherwise was a promise. It's only temporary. And some of the things that we're putting through today, again as I said earlier. There's 26 taxes and fees, some of which are temporary. So I hope those who keep a watch on what we're doing, and keep track of what we're

saying, are saying, 'Okay, you guys you said on the Floor, March 8, that this is only a temporary tax.' And I'm sure nobody remembers well who was on the Floor in 1999 when we said this was only a temporary surcharge. But the point is this is codifying a broken promise, and it should be taken as such. Thank you."

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

"Mr. Speaker, I rise in strong support. Just to speak up and put some truths into the discussion today. I think everyone knows that over the past several years the Highway Fund has been running short of money for necessary repairs and to maintain our roads in safe conditions. We all know that when our roads are not in safe condition, it creates a hazard for us. In fact the past Administration, the Lingle Administration was keenly aware of that and did embark upon a massive program to restore some repair schedules to our highways.

"The truth of the matter is, Mr. Speaker, that according to the Department of Transportation we need about \$150 million per year just to maintain our roads. These roads are essential for commerce, for transportation and for business. We spend an extraordinary amount of time in delays, traffic jams, and going around potholes because of the conditions of our roads. So this is very important to our economy.

"The measure is projected to result in a revenue gain to the Highway Fund of approximately \$11.2 million in the fiscal year 2012, and \$13.5 million in fiscal year 2013. Far short of the \$150 million we need. Just so that people know, this money will be used for our highways. Let me give you some examples. It will be used for maintaining and repairing the pavement and the shoulders of our roads, bridges, and other structures. Fencing and walls, drainage systems, traffic signs, guard rails, highway pavement markings, highway lighting systems, sidewalks, and wheelchair ramps. Landscaping, irrigation systems, cleaning the streets, and restoring State highways after slides, storms, damages, accidents, and other events.

"Mr. Speaker, I don't know about the other folks opposing this, but I was here in 1999 and I made no such promise. I only promised my constituents that I would be honest with them, speak truth to the facts. And I believe my constituents want me to support this measure to ensure that their highways are safe for their children and family, and affords their businesses to get to and from in a quick and safe manner. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support. I want to add one thing to the discussion that hasn't been brought up about the recent census data that came out. In the last ten years there are many districts in this State where many of our Representatives that are going to be pointing out to all of us the strong need for roads because the population has grown so much.

"So regarding some comments about doing the right thing, it's the right thing today given the new facts. The facts being there's a lot more people. The facts being that the cost of oil has risen so much that asphalt and what it takes to build roads has risen so much. It's eating into the funds that we have in the Highway Fund. It's not because of any raid or anything. It's the reality.

"The reality is we need more roads. The reality is it costs a whole lot more to build these roads. We have got to find a way to meet the demand. I'm even surprised at the growth in my district in West Hawaii. What is the number one issue for people in Waimea? It is roads. They want us to address roads.

"So we have to talk to our constituents and tell them the right thing to do is to work with us, because they're demanding it, but we need to find a way to pay for it. Thank you, Mr. Speaker."

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

"I'm sorry. I'm just need to clarify. Earlier I said I was with reservations. I meant to say in opposition for my vote. And just a couple of rebuttal

points. I want to thank the Finance Chair and the Majority Floor Leader for stating on this Floor what the intended purpose is. It is for us to fund the Highway Fund. I agree with them wholeheartedly. That is what this money in the Highway Fund is supposed to be spent on, Mr. Speaker.

"But I've got to tell you that if you're fooled more than one time, you kind of don't trust them anymore. That's how a lot of my constituents feel. It's like you're giving us these great stories. We want to help you. We want to get you back to your homes faster, and safely. You deserve this road. You deserve this improvement for your highways. But after what this Body just did in voting down a simple sentence saying, 'Hey we're going to use this money for what we're saying we're raising it for today.'

"It's so hard for me to go back to my constituents and say, 'You know, this is really what the money is going to be intended for,' because I can't have any guarantee. I have nothing in writing that anyone committed to. And so that's why I'm voting no today. Because I don't trust that this Legislature will actually use the money for the intended purpose and that's the Highway Fund."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief rebuttal. I think we've changed the lexicon of voting on the Floor here, and I seek a point of clarification from the Chair of the Finance Committee who was here in 1999. I was not here in 1999. But who said that he didn't make any promise. But I bet you he voted for the legislation.

"And if legislation votes are not promises to the people, then what are we doing in the roll call and all these other votes today. We're not making commitments by what we're putting our name, our reputation behind? What else do we have to go by? Votes are the recording codification of what we say we stand for and what we believe in."

The Chair addressed Representative Ward, stating;

"Representative Ward, could you confine your comments to the measure before us."

Representative Ward continued, stating;

"So the comment is if he thinks that voting for it and then breaking it is not a broken promise, we've changed the definition and the lexicon of what a vote means on the Floor of the House of Representatives, and the sense of what democracy is, and what our vote is as a republic voting for the people in our district. When we put our name and our vote to a piece of legislation, it should be what we intend to follow through with. Thank you."

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

"Mr. Speaker, in support. I don't quite follow the logic. We vote every year, or every other year, on a budget. It doesn't mean this is the last budget we're ever going to vote for. It does mean that you're going to vote for a budget, and if you vote for a bill that's temporary, well it doesn't mean another bill can't be brought up later and that you're going to have to vote on. So I just fail to see the logic of the 'promise not kept' argument. Thank you."

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

"Thank you, Mr. Speaker. I stand in support of the measure. I'm not a cheerleader here for, 'Yeah, we need more tax hikes. Yeah.' It's looking at the underlying issue. There's actually something going on on the Hill right now that was brought to my attention by our Maui County Director of Transportation that puts even more impetus on us to try and reinvigorate our Special Highway Fund, and that is called the end of earmarks and the beginning of competitive bidding.

"And what that means is every state's projects now are going to have to be bid on and reviewed by the federal government. And one of the criteria under discussion is the status of the Special Highway Fund.

"Now Mr. Speaker, yes, this does raise fees. And yes, this could end up being, as the good speaker from Hawaii Kai said, this could be \$100 more a year. But my question to him and to others is, if we don't repair these potholes, these broken sidewalks, and other things, how much damage to the car will it cost you at the end of that very same year.

"You don't need to go very far, Mr. Speaker. You can go right out there on the freeway. Right across the street here and see a big old pothole. You hit that thing going 50 mph and you're going to probably shred your tires. Go to Costco and get a new set of tires. You're already up \$300 if you have a coupon. Of course that's important to note, Mr. Speaker.

"But the main thing is, Mr. Speaker, if we're going to fix these things, if we're going to improve our roads, and if competitive bidding were to pass at the federal level, then we need to do these things now. It's not a choice that we make by, 'Yeah we want to do this because we just want to stick it to the taxpayers of Hawaii.' No. It's because we recognize that if we're going to build these roads, fix these roads, and be able to still secure federal funds, we have got to do our end to reinvigorate the Special Highway Fund.

"And for a matter of record, to my constituents, I campaigned on supporting the Highway Modernization Program as the good Speaker from Wailuku, the Transportation Chair talked about, which in his words, was a lot more onerous than the measure before us.

"Why did I support that? Because my constituents recognized that just wanting something doesn't make it happen. You need to 'feed the bulldog.' It's got to get paid for. But they recognize they would much rather have a road where they're not hitting potholes and shredding their tires. And their suspensions are being shot. And they're going into the Ace Auto building and paying \$500, \$600 minimum, or having to get a new car earlier because of the conditions of the road.

"Not to mention the effect bad roads have on mileage. Your mileage decreases greatly when you have bad, torn up roads. Not to mention that this is the only way to get intelligent traffic systems on all the islands, which will coordinate the lights, which will allow for better flow of traffic, which then decreases commuting time, and also increases gas efficiency.

"So that's why I stand in support. And just a tip to everybody out there. Next time you're stuck in traffic and you want to save gas, put your car in neutral. It works. Trust me. Thank you."

Representative Tokioka rose, stating:

"Thank you, Mr. Speaker. Just a point of clarification. Besides the Consent Calendar, is this the fifth bill that we're working on? I believe it is. So for the sake of brevity, can I call for the question, Mr. Speaker?"

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1097, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fontaine, Pine, Thielen and Ward voting no.

At 11:14 o'clock a.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1097, HD 1

At 11:15 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:21 o'clock a.m., with the Speaker presiding.

### LATE INTRODUCTIONS

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

Representative Ito introduced former Representative, Mr. Devon Nekoba, and former Representative and Senator, Mr. Avery Chumbley.

### ORDINARY CALENDAR

### UNFINISHED BUSINESS

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 643) recommending that H.B. No. 1520, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1520, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. May I make the same request for Standing Committee Report Nos. 643 and 644? May I have a ruling on a potential conflict? Given my pending appointment to the PUC, may I be excused from voting on both these measures?"

The Chair responded, stating:

"So ordered. You are excused."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1520, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 644) recommending that H.B. No. 1517, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1517, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. May I make the same request for Standing Committee Report 643 and 644? May I have a ruling on a potential conflict? Given my pending appointment to the PUC, may I be excused from voting on both these measures?"

The Chair responded, stating:

"So ordered. You are excused."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1517, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 646) recommending that H.B. No. 1095, HD 1, as amended in HD 2, pass Third Reading.

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

1095, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOPEDES," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 647) recommending that H.B. No. 1096, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1096, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOPEDED INSTRUCTION PERMITS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 654) recommending that H.B. No. 1486, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1486, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Carroll's written remarks are as follows:

"I am in strong support of HB 1486 HD1 as it requires small boat harbor vessel permittees to escort and accompany their passengers during their visit ashore by affiliated crewmember equipped to render emergency care. Furthermore, HB 1486 HD1 will address and remedy the unauthorized commercial use of Hulopoe Beach Park on Lanai by Maui tour boat operators.

"Time and time again we have received reports and complaints of private tour companies from Maui dropping numerous tourists unescorted and unattended to fend for themselves. Tour company's permits usually require these operators to stay with their customers until the end of their tour to ensure the health and wellbeing of their passengers. These commercial permits generate the necessary revenues to improve and maintain these public facilities to ensure their sustainability.

"Currently unsupervised tourists have presented issues such as overcrowding, over accumulated refuse, overuse of showers and toilet facilities, and have exacerbated the situation for those who live nearby and rely on the only public beach with shower, toilet and picnic table facilities. In addition, emergency situations are made unnecessarily complex and dangerous as many of these patrons are without identification or any type of communication with the private charter companies. House Bill 1486 HD 1 sets provisions for the use of quasi-public areas by patrons of tour companies and requires that such companies accompany their customers while they are ashore and conduct business in a satisfactory and mutually beneficial manner that will adhere to the best interests of all involved."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, last year on this Floor I noted job killer number 1, number 2, number 3, number 16. I never had a business killer. This is business killer number 1, because if this bill passes, all the small businesses that drop off visitors, tourists, those who want to enjoy Lanai Island will have no capacity to do so.

"And if I can be convinced otherwise, I would welcome anybody who says this is not going to kill the visitor industry or the small tour guys who bring and drop off people via boat on the Island of Lanai. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support. And to assuage the concerns of the previous speaker from Hawaii Kai, that is exactly what this will not do. What this bill does is seek to stop a loophole that has been exploited whereby carriers who are doing excursions for visitors are acting as unlicensed PUC carriers to the Island of Lanai.

"What this does is bring back what the Lanai residents originally wanted. I would like to actually submit the documentation to the Journal. They themselves asked that when people are coming to Lanai, that they be accompanied by the tour group to ensure that the facilities and other natural environment, the beauty of Lanai is protected and preserved.

"The only carrier that takes people and drops them off is a PUC license carrier. What's happened is other entities are basically doing the same thing under the guise of being a carrier, even though they're not. And they're conducting visitor operations which have greatly disturbed the people of Lanai.

"So what this does is to bring the situation into accord, and brings fairness to everybody. Most importantly, it ensures that the pact that the Lanai community and the County of Maui entered into years ago is still maintained today. Thank you very much, Mr. Speaker."

Representative McKelvey submitted the following documents:



Gerald Rabaino, Chair  
Hulopo'e Beach Park Council  
c/o Castle & Cooke Resorts, LLC  
P.O. Box 630310  
Lana'i City, Hawaii 96763

Re: IC-2008-034: Informal Complaint filed on February 28, 2008

Dear Mr. Rabaino:

This responds to the above-referenced Informal Complaint, IC-2008-034, filed by you on behalf of the Hulopo'e Beach Park Council ("Council") on February 28, 2008 ("Complaint"). The Complaint requests the State of Hawaii Public Utilities Commission ("Commission") to investigate certain companies engaging in the commercial activity of transporting passengers between the islands of Maui and Lana'i without a certificate of public convenience and necessity ("CPCN").

The Commission has conducted an investigation of the allegations in the Council's Complaint. Enclosed please find a memorandum prepared by Commission Staff that discusses the Commission's investigation of this matter.

As you may already be aware, under the Hawaii Water Carrier Act, Hawaii Revised Statutes ("HRS") Chapter 271G, water carriers operating between points within the State must apply for a CPCN and be regulated by the Commission. See HRS § 271G-10(a). HRS § 271G-6(5), however, exempts from regulation under Chapter 271G, "[p]ersons engaged in business of transporting persons for sightseeing and other recreational activities." Based on the observations discussed in the enclosed memorandum, the Commission concludes that the allegedly illegal boat operators are conducting recreational and sightseeing tours, and are therefore exempt from the Hawaii Water Carrier Act under HRS § 271G-6(5).

The Commission understands that the use of Hulopo'e Beach Park by visitors who are transported by commercial boats is a significant concern to the Council and many Lana'i residents. The Commission, however, is obliged to follow its laws, and absent a legislative amendment, those laws appear to presently exempt from the Commission's jurisdiction the commercial boaters who are the subject of the Complaint.

Hawaii District Office • 688 Kihoola Street, #106-A, Hilo, Hawaii 96720 • Telephone: (808) 974-6533, Facsimile: (808) 974-4534  
Kauai District Office • 3200 Ewa Street, #302-C, P.O. Box 3078, Lihue, Hawaii 96766 • Telephone: (808) 274-5232, Facsimile: (808) 274-5233  
Maui District Office • State Office Building #1, 54 South High Street, #218, Waikuku, Hawaii 96793 • Telephone: (808) 984-8182, Facsimile: (808) 984-8183

Gerald Rabaino  
October 2, 2008  
Page 2

If the Council still believes that the boating activity is in violation of the Commission's rules and regulations, the Council may file a formal complaint pursuant to Hawaii Administrative Rules, Title 6, Chapter 61, Subchapter 67, which are available on the Commission's website at [www.hawaii.gov/budget/puc](http://www.hawaii.gov/budget/puc).

If you have any questions, please contact me at 586-2139.

Sincerely,

Nicholas Ching  
Investigator

NC:cp

Enclosure

#### MEMORANDUM

**TO:** File  
**FROM:** Kaiulani Shinsato, Commission Counsel  
Nicholas Ching, Investigator  
**DATE:** September 15, 2008  
**RE:** IC-2008-034: Informal Complaint filed by Hulopo'e Beach Park Council

#### I. INTRODUCTION

This memorandum discusses two site investigations that were conducted by State of Hawaii Public Utilities Commission ("Commission") staff in connection with the above-referenced Informal Complaint filed by the Hulopo'e Beach Park Council ("Park Council") on February 28, 2008 ("Complaint").

#### II. BACKGROUND

In or around late November to early December of 2007, Commission Staff was informed by the Department of Land and Natural Resources ("DLNR"), Boating Division, that the following companies were picking up passengers from Maui and dropping them off at the Lana'i Small Boat Harbor:

1. Hone Heke Corporation dba Expeditions ("Hone Heke")
2. Trilogy Corporation ("Trilogy")
3. Ailhilani Yacht Charters, Inc. ("Ailhilani") (which sails on the "Paragon")
4. Seabird Charters, Inc. (which sails on the "Spirit of Lahaina"); and
5. Seabird Cruises, Inc. ("Seabird Cruises") (which sails on the "Maui Nui Explorer")

Between December 17, 2007 to December 24, 2007, Commission Staff sent inquiry letters to all companies above, with the exception of Hone Heke since Hone Heke is currently regulated by the Commission to operate a ferry service between Maui and Lana'i. Between January 3, 2008 to February 8, 2008, the four unregulated companies responded by letters filed with the Commission. Generally, the companies asserted that they offer excursion or adventure tours (e.g., for snorkeling, sightseeing, and whale watching), and are therefore exempt from Commission regulation under Hawaii Revised Statutes ("HRS") § 271G-6(5), which exempts from the Commission's Water Carrier Law, "[p]ersons engaged in business of transporting persons for sightseeing and other recreational activities." The boat operators also stated that they all have the required DLNR permits that allow them to operate in Lahaina Harbor and Manele Harbor. Several of the operators represented that they have been operating for over twenty-five years.

On February 28, 2008, the Park Council filed its Complaint, requesting the Commission to investigate boating companies that are allegedly illegally operating as a ferry service by transporting passengers between the Islands of Maui and Lana'i without a certificate of public convenience and necessity ("CPCN"). The Complaint specifically named Seabird Cruises and Alihilani, among "others," as companies that were engaged in the allegedly illegal commercial boating activity.

Upon invitation by the Governor's Lana'i Community Advisory Council ("Advisory Council"), on behalf of the Commission, Bryan Kageyama and Kalulani Shinsato ("KKS") attended the Advisory Council's monthly meeting on Lana'i on March 25, 2008. Several representatives of Castle & Cooke, the Park Council, and the community attended the meeting. In addition, corporate officers of Hone Heke and Trilogy testified at the meeting. It did not appear that representatives of Alihilani, Seabird Charters, and Seabird Cruises attended the meeting. Commission Staff explained the Commission's jurisdiction over water carriers and answered numerous questions from attendees. Based on the testimony heard at the meeting, it became apparent that the allegations of illegal boating activity were not aimed at Hone Heke and Trilogy. Specifically, it was acknowledged at the meeting that Hone Heke was operating as a legitimate ferry service between Maui and Lana'i, and had already obtained a CPCN from the Commission. Moreover, regarding Trilogy, it was explained that Trilogy was the only legitimate tour service that lands on Lana'i. Trilogy's customers are escorted onto the island by licensed/trained guides, and it pays a fee for use of the Hulopo'e Beach Park facilities. Attendees at the meeting encouraged Commission Staff to conduct site investigations and take "tours" with the unregulated boating companies.

### III. SITE INVESTIGATIONS

Investigator Nicholas Ching ("NC") was informed by Seabird Charters, Inc. that it no longer operates tours to Lana'i; and as set forth above, the Park Council and community members on Lana'i do not allege that Trilogy is operating illegally. Thus, it was decided that staff should conduct two site investigations of the two remaining operators – Alihilani and Seabird Cruises.

#### 1. Alihilani/Paragon

The first investigation of Alihilani, which sails on the Paragon, was conducted undercover by NC on June 7, 2008. Paragon advertised this tour as a "Lana'i Snorkel, Beach Picnic & Performance Sail." This tour is described on Paragon's website as follows:

Paragon Sailing Charters proudly announces their newest snorkel sail destination, the exclusive island of Lana'i. Known as the pineapple island, Lana'i's hidden secrets include spinner dolphins off the white sand beach at Manele Bay. The underwater treasures are so unique that Lana'i has

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been rated one of the top 10 snorkel destinations in the world.

As a discriminating visitor to Lana'i, your adventure aboard Paragon begins at historic Lahaina Harbor with an 8:15am check-in. A deluxe continental breakfast is served as you enjoy the panoramic view of the islands of Maui, Molokai, Kahoolawe and Hawaii in the distance. The white sand and pristine water of Manele Bay is your mid-day Lana'i destination. When we arrive, you will discover one of the most beautiful beaches in Hawaii, Hulopo'e Beach. Enjoy your picnic lunch as you lounge on grass mats, or snorkel the underwater world of Hulopo'e Bay – one of Hawaii's most incredible snorkeling destinations. On the return sail, Paragon often stops just off Maui for our spectacular [sic] blue water swim. This refreshing swim break is a wonderful compliment to the many details Paragon offers on our Lana'i tour. Paragon Sailing Charters provides a first class experience for all.<sup>1</sup>

The Paragon is a sailboat that is also equipped with a motor. En route to Lana'i, the Paragon went by motor, while on the return trip, the Paragon went by sail. As a part of the tour package, passengers were provided with a continental breakfast, a picnic lunch, snacks, non-alcoholic and alcoholic beverages, and snorkel gear.

NC boarded the Paragon at approximately 8:30 a.m. at Lahaina Harbor. While traveling to Lana'i, the boat encountered a pod of spinner dolphins. The boat slowed to follow the pod and allow passengers to take pictures of the dolphins. The boat's crew provided some educational explanations to passengers on sea life, including dolphins and turtles. The crew also provided a brief snorkeling lesson to passengers and handed out snorkeling equipment. The boat anchored for approximately one hour off the coast of Lana'i for passengers to snorkel. At this snorkel spot, passengers were able to view a variety of fish, as well as sea turtles.

The Paragon then traveled to Lana'i and docked in the Manele Small Boat Harbor at approximately 12:15 p.m. Passengers were allowed about an hour of free time on Lana'i; they were instructed to return to the boat by 1:10 p.m.<sup>2</sup> Passengers were escorted only to the top of the harbor area so that the beach could be pointed out down the road. The boat crew then returned to the boat, left the harbor, and most likely anchored somewhere outside of the harbor until shortly before the 1:10 p.m. pick-up time.

<sup>1</sup>See <http://www.sailmaui.com/lana'i.htm>.

<sup>2</sup>Upon earlier telephone inquiry by NC to Paragon, Paragon informed NC that they do not conduct one-way trips to Lana'i, and that Coast Guard regulations require them to return with all passengers they drop off on Lana'i.

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Passengers walked along the road to Hulopo'e Beach. While at the beach, passengers ate their picnic lunches, swam, and sunbathed.<sup>3</sup> Passengers then walked back to the harbor to board the boat at 1:10 p.m. The boat crew took a head count to make sure all passengers were on board.

On the return trip, conditions were windier and the Paragon sailed back to Lahaina. Passengers were offered snacks and drinks, including alcoholic drinks. The crew intended to anchor off the coast of Maui so passengers could swim. However, because some passengers became seasick when the boat stopped, the crew decided to continue the sail. The Paragon docked in Lahaina at approximately 3:30 p.m.

#### 2. Seabird Cruises/Maui Nui Explorer

KKS conducted an undercover investigation of Seabird Cruises, which sails on the Maui Nui Explorer, on July 10, 2008. The tour, called "Lana'i Landing," is described as follows:

This is an adventure for those who want to have a lot of fun. . . . The Explorer offers two snorkel sites, one off the boat along the coast of Lana'i and several hours on the beach at Manele Bay. Continental breakfast on the way over and a deli style picnic on the beach give this trip an added twist. Beachcombing, snorkeling or a peek at the Lodge at Manele are just a few of the options. . . . This is a very good outing for those looking for adventure.<sup>4</sup>

The Maui Nui Explorer is a 48-foot long motorized raft. As a part of the tour package, passengers were provided with a continental breakfast, a picnic lunch, snacks, non-alcoholic beverages, and snorkel gear.

KKS boarded the Maui Nui Explorer at approximately 9:00 a.m. at Lahaina Harbor. Prior to boarding, passengers stood in front of a buoy and had their pictures taken by a photographer. These pictures were available for purchase after the trip. The boat departed for Lana'i. Midway in the trip, the captain of the boat stopped the boat to point out the islands of Maui, Molokai, Kahoolawe, and Lana'i. He also explained some geological features of the islands and the ocean (i.e., the depth of the sea floor in that area).

It took about one hour for the boat to reach the coast of Lana'i. The boat anchored in a remote spot off of the island. Snorkeling instructions were provided to

<sup>3</sup>NC noted that passengers generally did not snorkel at the beach given the relatively short time they had to spend at the beach.

<sup>4</sup>See <http://www.activitysaversonmaui.com/lana'i.php>.

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passengers and snorkeling gear was distributed. The crew explained the kinds of sea life that were prevalent in that area. They also gave basic instructions on water safety and signals to use to communicate in the water. Passengers were then allowed about one hour to snorkel. Various types of fish were seen, as well as numerous sea turtles. Many passengers took underwater pictures.

The boat then continued to travel towards Manele Harbor. During this part of the trip, the boat kept close to the coast, which provided a more scenic view of the island. Just prior to reaching the harbor, a large pod of spinner dolphins was spotted near the coast. The captain of the boat drove the boat right next to the pod so that passengers could get a close-up view of the dolphins. Many passengers took pictures and video. The crew provided educational background on the behavior of spinner dolphins, including the fact that they enjoy playing in the wake of boats. The boat captain made several faster trips along the coast so that passengers could see the dolphins playing in the wake of the boat.

After about 30 to 45 minutes of watching the dolphins, the boat continued towards Manele Harbor. The boat actually passed the harbor and first traveled to "Sweetheart Rock," a famous landmark on Lana'i, and then went to a cove area. The boat then turned around and traveled back towards the harbor. More dolphins were seen along the way. Outside of Manele Bay, the captain stopped the boat and gave instructions for passengers' use of Manele Beach. He pointed out that the left side of the beach closest to the Four Seasons Resort at Manele Bay was for use by hotel guests and that passengers should utilize the picnic tables and showers on the right side of the beach. He also encouraged passengers to throw away their trash and to be back at the boat promptly by 3:00 p.m. for the return trip to Maui. The boat then continued towards the harbor, docking at around 12:00 p.m.

The crew explained to passengers how to get to the beach from the harbor (an approximate 5-7 minute walk). Passengers were allowed off the boat unescorted with their picnic lunches and snorkel gear. The boat left the harbor.<sup>5</sup>

Passengers walked to Hulopo'e Beach. While at the beach, passengers ate their picnic lunches, swam, snorkeled, sunbathed, or hiked to a scenic lookout to view Sweetheart Rock (on the opposite side of the resort). Before 3:00 p.m., passengers returned to the harbor. The boat crew took a head count to make sure all passengers were on board.

The boat traveled non-stop back to Lahaina. Along the way, the captain allowed passengers to take turns steering the boat. The boat docked in Lahaina Harbor at approximately 3:40 p.m.

<sup>5</sup>During the return trip to Maui, some passengers asked the crew what they did while passengers visited the beach. The crew informed the passengers that they anchored the boat outside of the harbor and did some maintenance work on the boat.

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- c: Carlito P. Caliboso, Chairman
- John C. Cole, Commissioner
- Leslie H. Kondo, Commissioner
- Stacey Kawasaki Djou, Chief Legal Counsel
- Brooke K. Kane, Administrative Director
- Bryan G. Kageyama, Maui District Representative

control, management and operation of the Company.

K. "Resident" means any person who permanently resides on Lanai as his/her principal place of residence. This includes military and full-time students financially dependent on their parents. The Company will use such criteria as Post Offices boxes, driver's license address, voter registration, tax "home" etc. to verify the same. A resident includes new company employees (not seasonal), teachers, police and firemen from the first day of physically taking up residence on Lanai. It does not include non-resident property owners or individuals who are temporarily employed on Lanai by a non-resident employer, contractors, etc.

L. "Type I Activity" means any activity organized and conducted by the Company.

M. "Type II Activity" means any activity organized and sponsored by any person or nonprofit entity which does not charge an admission to attend the activity.

N. "Type III Activity" means an activity organized and sponsored by any nonprofit entity which charges admission to attend the activity.

O. "Type IV Activity" means any activity organized and sponsored by any person or entity for the purpose of carrying on a profit making enterprise.

P. "Nonprofit entity" means an entity which complies with Section 416-19 of the Hawaii Revised Statutes.

Q. "Traditional recreational use" means current and past uses of beach and park areas by Lanai residents, which shall include but are not limited to: camping, pole fishing and picnicking.

ARTICLE II. PROHIBITIONS

Any activity deemed illegal on public property by the laws of the State of Hawaii and the County of Maui, shall be prohibited in the beach park area.

General prohibitions applicable to (all) park areas and recreation facilities. Traditional use shall not include any of the following:

A. Within the limit of the park or within any

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recreational facility, it shall be unlawful for any person to:

1. Abandon any vehicle or other personal property or leave any vehicle or other personal property unattended for a period of excess of twenty four hours;
  2. Throw or dispose of any refuse or any waste material except in a receptacle designated for such;
  3. Permit any animal, except as hereinafter provided in Subsection D of this Section, to enter and remain within the confines of the park area;
  4. Destroy, injure, deface or remove in any manner any structure, sign, equipment, monument or device;
  5. Discharge firearms, air rifles or spring guns, all types of guns and rifles, bow and arrow.
- B. Except as otherwise authorized by the company, it shall be unlawful for any person, within the limits of the park or recreational facility to:
1. Distribute, post or place any commercial handbill or circular, notice or other advertising material;
  2. Repair cars or other vehicles;
  3. Store, repair, or condition any boat, canoe, raft or other vessel;
  4. Park or operate any vehicle on grassed and sand areas;
  5. Use or operate loudspeakers;
  6. Engage in archery;
  7. Kindle, build, maintain or use any fire other than in a grill or hibachi and in designated areas.

C. The company will designate, by posting signs, areas where activities including but not limited to the following are not permitted:

1. Active recreational uses, such as football or baseball, which endanger or impair the use and enjoyment of the park by others;
2. Ride on roller skates, skate boards or bicycles.

recreation and other beach oriented services) on Park property for a fee or other consideration and/or as part of a commercial enterprise, whether or not there is consideration exchanged on Park property or elsewhere. The company shall have discretion to authorize commercial use on the Park upon the issuance of a Type IV permit.

Separate Events

Except for camping, a request for separate days shall be considered separate events and will require separate permit applications.

Priority of Use

No more than one person or organization applies for the use of the park or recreational facility for the same time period and the mutual use of the applicants is incompatible, as determined by the Company, priority as to use will be given on the basis of the first written application received by the permit office except that the present four boat operators who have pre-existing agreements with the Company shall have continued commercial access.

Fees and Deposits

Fees.

Fees may be charged for the exclusive use of the park or any portion thereof or recreational facilities by persons or organizations. Fees shall be charged in accordance with the fee schedule set forth herein and as may be adjusted from time to time by the Company.

Custodial Deposit

Custodial deposit may be required for exclusive use of the park or any portion thereof or recreational facilities. The deposit shall serve as security for the cleaning and repairing of the park or recreational facility premises. Custodial deposits are refundable upon determination by the Company that the cleaning and restoration of the facilities or park have been satisfactorily performed. Custodial deposits will be forfeited if restoration is not completed within the time provided on the permit. If the permit holder does not satisfactorily clean and restore the facility or park, the Company shall perform the necessary cleaning and restoration, deduct the cost of the

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D. Regulation on animals.

1. The company may set aside areas for horse riding, animal shows, classes and trails

2. Dogs shall be permitted provided that they shall be on a leash with owners responsible for any clean-up of animal's waste.

E. Regulation on motor vehicles.

The company may, with just cause, prohibit or restrict the operation or parking of a motor vehicle, including motorcycles, sand buggies, etc., within the premises of the park or the premises of a recreational facility.

ARTICLE III. OPERATING POLICY

Hours

The park shall be open to the public every day of the year. Special events shall not close more than 1/2 of the entire park area, and no such event shall exceed two (2) consecutive days per year. Any closing of a designated area for special events shall require forty eight hours notice to Lanai residents. Notice can be the posting of the date and times of special events at the community bulletin board. The beach access road and parking lot will remain open for public use at all times. There will be no maintenance or custodial services provided on Christmas and New Year's Day.

ARTICLE IV. PERMITS AND FEES

Casual User

This permit procedure shall apply to a person or organization seeking the exclusive use of the park or recreational facility or a portion thereof and shall not apply to a casual user.

Commercial User

Commercial activity on the park is prohibited. Commercial activity means any act whereby a person receives any benefit or promise to receive a benefit by providing goods or services to another person. Commercial use, includes, but not by way of limitation, the provision of goods and services (including but not limited to food, beverage,

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PARK AREA RULES AND REGULATIONS

PREFACE

The following park area rules and regulations as incorporated with the Unilateral Agreement dated April 23, 1987 between Lanai Company, Inc., and the County of Maui, are not intended to ignore or supersede traditional, recreational uses. The Agreement and its rules and regulations recognizes and defers to any and all existing traditional recreational uses of Hulopoe Beach Park and adjacent shoreline areas.

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ARTICLE I. GENERAL PROVISIONS

Definitions:

For the purpose of these rules and regulations, certain phrases and words are defined as follows:

A. "Beach" means areas directly ocean side of park areas that are designated public property as defined by the State and are therefore under the jurisdiction of the State and not subject to the rules and regulations of the "Park Area Rules and Regulations".

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B. "Camper" means any person who remains or intends to remain at the park or recreational facility in order to use the facility as overnight accommodations.

C. "Camping" means the use and occupation at the park or recreational facility whereby one or more persons remain or intend to remain at the park or recreational facility in order to use the park or facility as overnight accommodations.

D. "Casual User" means any person or organization utilizing the park area who would not be covered by any of the remaining activities listed in the Park Rules and Regulations and would not be subject to any registration requirements or fees.

E. "Company" means Lanai Company, Inc., its successor or assignee.

F. "Deposit" means a sum of money placed with the Company as security for the use and maintenance of park and recreational facilities.

G. "Fees" means monetary charges required by the Company pursuant to the provisions herein for the authorized use of parks and recreational facilities.

H. "Park" means the park, park roadway, (beach, beach right-of-way) and other recreational areas at Hulopoe under the control, management and operation of the Company.

I. "Permit" means a written authorization signed by the Company or an authorized representative allowing the use of park and recreational facilities.

J. "Recreational facility" means any building or other physical structure, such as pavilions and picnic tables used for recreational purposes and under the

cleaning and restoration from the deposit and recover by legal means available, any cost in excess of said deposit.

The Company may deny any future permits to permit holders for a period of one year upon failure on the part of the permit holder to:

1. Satisfactorily clean and restore any part of the park or any recreational facility; or
  2. Pay any cost in excess of the above-mentioned cleaning deposit.
- C. Key Deposit.

A key deposit may be required for the use of recreational facilities. Key deposits are refundable upon the return of the key. Key deposits will be forfeited in the event that the key is not returned within twenty four hours after the termination of the activity.

Schedule of Fees and Deposits. (See Attached).

Permit Procedures.

A. Application.

Any person or organization seeking issuance of a permit for Type II, Type III or Type IV activities shall file a written application with the Company. The application shall include the following:

1. Name and address of the person or entity applying for the permit and the name and address of any responsible agent for the applicant;
2. Name and address of the person or organization sponsoring the activity;
3. The nature of the activity to be engaged in by the person or organization;
4. The day and hours for which the permit is requested;
5. The park or recreational facility or portion thereof for which the permit is requested;
6. An estimate of the anticipated attendance;

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ARTICLE V. CAMPING

This section pertains to those wishing a reserved space in designating camping areas and relates to non-residents applying for camping permits.

Camping Areas:

- (a) Camping shall be permitted subject to the following provisions:
- (b) Except as otherwise provided for, camping shall be designated for residents and non-residents at specified designated areas. The Company may permit organizations and/or groups and non-residents to camp for a period of no longer than three consecutive days. Residents may be authorized to camp for a consecutive period of no more than five days. Non-residents may be authorized to camp with residents, as a guest of residents, in the resident designated area, as long as the resident camps with the guests. The Company may curtail or prohibit camping or withdraw any permits issued if the company determines that camping is or would be detrimental to the public health, safety and welfare, or in violation of law. All designated camping areas shall be used by the permittee so that the camping area is clean of refuse, garbage and any unsanitary areas, campers are required to use restrooms and campers shall not be utilized for drying laundry. The drying of laundry is permitted on the camp tent, on the mauka side of the tent, so long as the laundry not showing above the height of the tent. A company may establish additional rules and regulations to govern camping in permitted areas.

Permits:

- (a) Applicants for camping permits shall be 18 years of age or older;
- (b) Any person, organization desiring to camp shall first obtain a camping permit from the Company by applying for the same in person or in writing to the Company;
- (c) Permits shall be limited to a maximum of three consecutive days for each camping site (non-residents) and a maximum of five consecutive days (for residents)
- (d) Any person or organization, shall have in its

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7. Certification of payment in full of all required fees and deposits;

8. Any other information which the company may require in making the determination as to whether the permit should be granted;

B. Responsibilities of the Applicant.

1. Obtain the necessary permits required by State and County agencies;
2. Secure the necessary utility services not provided by the Company;
3. Hire any personnel deemed necessary by the Company to accommodate the planned activity;
4. Perform any services deemed necessary by the Company to accommodate the planned activity;
5. Perform or cause to be performed daily custodial services while the permit is effective and a cleaning and restoration after the use of the park or recreational facility.

Revocation.

The Company may revoke a permit upon the violation of these rules or any County ordinance or State statute.

Limitations on Use of Permits

- A. A use permit for Type II, Type III and Type IV activities at any park or recreational facility shall not be given to any person or organization for more than three consecutive days.
- B. The approval of the permits for Type IV activities shall be at the sole discretion of the Company with the objective of assuring that the park shall be primarily for the public's use and enjoyment of Type I, II and III activities by the residents, their guests, and guests of the hotel.
- C. It is understood that Types I-IV activities shall be in accordance with the permitting rules and regulations applicable to all parks and the exclusive use of any park increment shall be limited to no more than one half of that increment and its facilities.

possession a copy of the permit.

Fees:

(a) Any person or organization applying for camping permit shall at the time of the application provide a non-refundable registration fee of \$5.00 per person and a fee of \$5.00 per person per day which may be adjusted by the Company to reflect the increased cost of administering and supporting the camping program.

Curfew:

Only persons camping pursuant to duly issued camping permits shall enter or remain in the designated camping areas within said park area between 12:00 midnight and 6:00 a.m. The curfew does not pertain to individuals wishing to pole fish overnight, those exercising traditional use of a park, or others as approved by the company.

ARTICLE VI. AMENDMENTS

These regulations may be amended, revised and altered by the Company or by action of the Park Council through the Company to assure that the public use and enjoyment of the park shall be maximized for the greatest number of users and to minimize the cost of maintenance to provide maximum utilization provided the rules and regulations are amended in a reasonable, nondiscriminatory and nonarbitrary manner. Any proposed amendments shall require a public meeting on Lana'i by the Park Council before formal application is made by the Company to the Parks Department of the County of Maui to amend these rules and regulations.

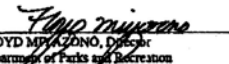
ARTICLE VII. PENALTIES

Any person violating these Park Area Rules and Regulations shall upon conviction, be subject to a fine of up to \$500.00

APPROVED AS TO FORM AND LEGALITY:

  
EDWARD KUSHI, Deputy Corporation Counsel

APPROVED AND ADOPTED:

  
FLOYD M. AZANO, Director  
Department of Parks and Recreation

DATED: 6/16/11

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

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

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

"Thank you, Mr. Speaker. I am in strong support of this measure. I also would like to adopt the words from the Representative from Lahaina as my own."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1486, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Ward voting no.

Representatives Herkes and Keith-Agaran, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 691) recommending that H.B. No. 924, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 924, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

At 11:27 o'clock a.m., the Chair noted that the following bills passed Third Reading:

- H.B. No. 1520, HD 2
- H.B. No. 1517, HD 1
- H.B. No. 1095, HD 2
- H.B. No. 1096, HD 1

H.B. No. 1486, HD 1  
H.B. No. 924, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 693) recommending that H.B. No. 235, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 235, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition of this measure. This is the measure in the Finance Committee that came out as elixir if you will, for all the ills of corporations. This is a new thing called the limited liability company, or the ingenuity company. It promises to have prominent social values, prominent environmental values, and fair labor standards.

"In the testimony it was suggested that this would even help the workers in Chile, help their environment, and the standards we set by this will be implemented. Mr. Speaker, I read this, discussed it with my colleagues and from the legal point of view. There's nothing in this bill that can do any of that. It cannot effectuate a better environment, better labor standards, etc.

"It should be commended for its ingenuity in that it is called an ingenuity corporation, but in effect, it's really ingenious, if we look at what it promises and is not able to deliver. So I'm not sure why this is here. I know it was on the Floor a number of times before as basically a labor bill to get corporations to be more labor sensitive. But where it's going now I'm not sure is the genuine thing in that it calls itself as an ingenuity corporation. Thank you, Mr. Speaker."

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

"Thank you. Yes, with reservations on Stand. Com. Rep. No. 693. I just wanted to point out that the Business Registration Division of the Department of Commerce and Consumer Affairs said that it would require more funds to develop software to handle this new type of limited liability corporation. So just to let us know that it might cost us some extra money. Thank you."

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

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

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

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

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

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

"Mr. Speaker, I rise in strong support. Let me first of all ask for permission to submit written comments at the close of my brief remarks.

"First of all, let's start off with the basic notion that under the federal Constitution, our founding document provides in Article I, Section 8, that Congress shall have the power to promote the progress of science and useful arts by securing for limited times to authors and inventors exclusive rights to their respective writings and discoveries. That is the fundamental law regarding ingenuity, technology, patents, copyrights, trademarks, etc. Things that are products of the mind and ingenuities of individuals.

"In the era of patents, Mr. Speaker, the purpose of having these protections is that they provide incentives for economic and efficient use of research and development. Again, the product of people. They encourage the disclosure of innovations to the public for the common good and for commerce.

"This bill will help create and retain jobs in Hawaii and the United States by requiring the ingenuity companies create jobs in Hawaii, and the United States. It will protect the rights of inventors and innovators. It will increase the value of their patents. And it will also support public policy in the laws that we pronounce to protect: our workers, our environment, our suppliers, and our communities.

"It will also mitigate the effects of the most recent decision, the eBay case by the United States Supreme Court in 2006 in the articulation and application of the four-part injunction test. It will promote fair labor standards, enhance environmental protection, and promote the development of Hawaii and the United States in the areas of science and useful arts.

"And let me give you a real example. Before me is a can of pineapple. It's stamped on it, 100% Hawaiian, USA. This is probably the last can of pineapple you might see for a while. It came off the Island of Maui before Maui Land & Pine shut down their canning operations. I think history will reflect that the entire global pineapple industry, both Dole and Del Monte had its roots in Hawaii.

"In fact, Mr. Speaker, it hits home, close to me and my own hometown, because it is where Mr. Dole, Mr. Clark and Mr. Eames began their pineapple enterprises. The first canned pineapple fruit were shipped from the community of Wahiawa to the US Continent.

"So let's go on with my example. Let's say for example, that today an inventor comes up with a new hybrid type of pineapple. This type of pineapple is sweeter, juicer, and resistant to disease. It also uses less water. The inventor of the pineapple gets a patent on it so that no one can sell or distribute this new hybrid without the permission of the inventor.

"The inventor gives a license to grow and sell the hybrid to a small pineapple company in Hawaii. Let's say Maui Land & Pine, or the folks on the North Shore of Oahu. Because of the license, those small companies are allowed to grow, sell, and make money off the hybrid Hawaiian pineapple. And again, Hawaii is the land of a thousand pines.

"But someone from a big company comes in and steals the hybrid pineapple. The big company starts to produce the new pineapple growing all of it overseas where it is cheaper. Where it does not have the environmental standards to worry about. The inventor goes to court to try to get an injunction to legally stop the big company from growing and selling the hybrid pineapple.

"The four part test that the inventor has to meet to get an injunction is as follows. Number one, that he has suffered irreparable injury. Number two, that the remedies available in law are inadequate to compensate for the injury. Number three, that considering the balance of hardships, a remedy and equity is warranted. And number four, that the public interest would not be disserved by a permanent injunction."

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

Representative M. Oshiro continued, stating:

"Thank you, Representative Lee. Because the inventor has given a license to a small company in Hawaii, the court sees that the inventor is willing to give out licenses. The court rules that the big company has to pay the inventor money, but it can continue to keep producing the hybrid pineapple. No injunction.

"But if this patent was held by an ingenuity company, that could be a different story. When the inventor goes to court, the same four-part test applies with one major difference. Because the ingenuity company must create jobs in Hawaii, must uphold fair labor standards, and must enhance environmental protection, the damage to the hybrid pineapple patent is



irreparable because the company is required by law, Hawaii State law, based upon the designation that they must use their patent to fulfill those futures to become compliant with the law.

"Merely paying for damages or infringements is not enough. The big company isn't doing those three things so the patent is not being used properly, and it is being used illegally. The court therefore is more likely to rule that the big company can't keep using the patents as it has been, even with a monetary award, and maybe an injunction to stop their theft will come forward.

"Certainly there is no guarantee the court will force a big company to stop the patented hybrid pineapple. There is no way to guarantee a court outcome, but being part of a company designated as an ingenuity company reinforces that if this hybrid pineapple patent is going to be used, it has to be used in those ways. Creating and retaining good jobs in Hawaii, upholding fair labor standards, and doing so in conjunction with proper environmental standards.

"Why does this all matter, Mr. Speaker? It matters because as a natural resource-poor state, except our renewable energy, we must encourage and nurture our rich human talent and innovativeness. Hawaii already has per capita, more patent holders than any other state and some countries. We need to encourage intellectual property as an industry in Hawaii and establish laws and rules to become the capital for ingenuity protection and promotion, just as Delaware, a very small state has become the capital for the traditional corporate model.

"Last night I got a call from Mr. Ian Chan Hodges and he shared with me that he had spoken with Dr. Damadian, the inventor of the MRI. Dr. Damadian wrote a letter regarding this bill and I'd like to share a few important points.

"Dr. Damadian points out these facts. The US Patent system created in part by George Washington and Thomas Jefferson is designed so that people who invent new technologies, regardless of their access to capital, own them and therefore have the opportunity to profit from them. The US Patent system is absolutely vital to America's economic strength. Indeed it helped to create it.

"Abraham Lincoln declared that patent rights, "secure to the inventor for a limited time, exclusive use of his invention and thereby added the fuel of interest to the fire of genius and the discovery and production of new and useful things."

"He closes his letter as follows: 'By establishing the ingenuity company designation, the State of Hawaii will be addressing these concerns in a matter that benefits inventors, creates and retains good jobs, as well as support other public purposes.'

"Mr. Speaker, I believe we're on to something bigger than we can imagine or foresee. I humbly ask my colleagues to hold up any cynical doubt, but have some faith in Hawaii's people and their ingenuity. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in strong support of House Bill No. 235, House Draft 2, relating to limited liability companies.

"This bill would allow a limited liability company to be designated as an "ingenuity company" and require an "ingenuity company" to use the right to exclude, conferred by a patent in which the company has an interest in this right to create job opportunities, uphold fair labor standards, and enhance environmental protections.

"The entire concept of a patent comes from Article One, Section 8(8) of the Constitution of the United States of America, which states:

*"The Congress shall have power...To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors exclusive Right to their respective Writings and Discoveries."*

"Our founding fathers recognized that it is through innovations and ingenuity that our country grows and moves forward towards further success. This understanding has always been a part of American history and culture. Patents are vital to protecting ingenuity because they encourage innovators to disclose their work for the common good, rather than keeping inventions only for their own use. Esteemed American author Mark Twain wrote, "I knew a country without a patent office and good patent laws was just a crab, and couldn't travel any way but sideways or backwards." That same sentiment holds true today—our country moves forward through protecting and promoting ingenuity.

"What this House Bill No. 235, House Draft 2 does is to take that inherent belief in American ingenuity and offer it further protection in the form of law. Patents are difficult to defend in part because of the four-part test that they must pass after being infringed upon, set up in eBay Inc. v. MercExchange, L.L.C. 547 U.S. 388 (2006):

1. That the patent has suffered an irreparable injury;
2. That remedies at law are inadequate to compensate for that injury;
3. That considering the balance of hardships . . . A remedy in equity is warranted; and
4. That the public interest would not be dissected by a permanent injunction.

"I discussed in my spoken Floor remarks about this first part of the test, and how an ingenuity company would make it easier for the patent holder to prove an irreparable injury, using the example of a hybrid pineapple patent. However, this bill would enhance the ability of patent-holders to prove each part of the test, and so, I would like to briefly explain how this House Bill No. 235, House Draft 2 would assist inventors in meeting the other parts of the four-part test.

"The second requirement of the four-part test is that "remedies at law" are inadequate in terms of compensation. Using my example of the hybrid pineapple patent, when the inventor goes to court, the court will see if "remedies at law"--which refers most often to monetary damages--are adequate compensation. Without the protections afforded by an ingenuity company designation--the requirements that patents held by an ingenuity company must be used to create good jobs, to uphold fair labor standards, and to enhance environmental protection--many courts might find that monetary damages are adequate remedies at law for the damage done to the pineapple patent. The inventor could walk away with a sum of money--perhaps a large one--but without the right to stop this big company from using the pineapple patent.

"However, if the patent is held by an ingenuity company, the pineapple patent must be used in these three ways. Therefore, money alone cannot be considered adequate compensation for the violation of the patent because the pineapple patent is not being used as they legally must be used. The court is more likely to find that the ingenuity company's patent cannot continue to be used by the big company.

"The third requirement of the four-part test is that "considering the balance of hardships . . . a remedy in equity is warranted." In this example, the "balance of hardships" refers to looking at the damage done to the inventor and holder of the hybrid pineapple by the theft of the patent and looking at the damage that could be done to the big company that stole the patent if they are forced to stop using the patent. The big company claims, of course, that their hardship would be greater because they have a larger amount of assets hanging in the balance.

"However, if the pineapple patent is held by an ingenuity company, then the balance of hardships can be tipped in the inventor's favor. The pineapple patent is required by law to be used in three ways (creating good jobs, upholding fair labor standards, and enhancing environmental protection), so if the big company is not using the patent in those ways, then the hardship done to the ingenuity company is enhanced. If the ingenuity company is forced to give a license to the big company who is shipping all the jobs relating to the pineapple patent overseas where it can use forced labor and not pay attention to environmental protections, the

ingenuity company will be in violation of the law, making their hardships much greater than they would be without the protections that the designation affords.

"The fourth and final part of the four-part test is that "the public interest would not be disserved" by the court granting the inventor a permanent injunction and forcing the big company to stop using the pineapple patent. Under current conditions, because the big company has a larger customer base, so more people have access to the hybrid pineapple, the public interest could face a greater disservice by an injunction which would prevent some people from having access to the hybrid pineapple.

"However, if the pineapple patent is held by an ingenuity company, then the injunction would serve the public interest in three specific ways: helping to create and retain good jobs in Hawaii and the United States, helping to uphold fair labor standards, and helping to enhance environmental protections. Without the injunction, these three public interests would be disserved.

"This bill seeks to provide greater protections to patent holders by creating the designation of "ingenuity companies" and requiring companies with this designation to fulfill three public interests: to create and uphold good jobs in Hawaii and the U.S., to uphold fair labor standards, and to enhance environmental protection. We must seek to make these three interest priorities. We need jobs in Hawaii and the U.S., especially after the recession which damaged our economy. We need to uphold fair labor standards, ensuring that our American ingenuity is being used to help and not to harm others. We need to enhance environmental protection, especially in the face of climate change.

"The ingenuity company designation is a designation of companies that could change the way that patents are protected and the way American ingenuity is used throughout the world. We have a chance to be on the cutting edge of the protection and promotion of innovation, and I ask your indulgence to explore this opportunity.

"Thank you, Mr. Speaker, for this opportunity to insert written comments."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief rebuttal. Cynical doubt. I'm not sure. Even though I appreciate the live example using the Maui Pineapple. I think that it shows that it's been thought out rather than on its face value, not such thought out.

"Number one, intellectual property rights are international law. Everything that is packaged within a copyright, patent, etc. If you want to have riders on that, there's nothing in law now that says you can't do that. Like if you're going to use this, you can't do it in a certain way. You've got to be conscientious of certain standards. There's nothing in law that agreements between contracting parties cannot make.

"Number two. I appreciate the value of a small local company because we want to promote small business. But generally speaking, it's the 'big fish' eating the 'small fish.' It's the small guy with the patent who gets bought out by the big boys. The Googles who buy up the small innovative, creative companies. And that's how the small guys make money and then themselves become big boys. So the reality is his example is in fact turning it on its head. It's not easily the other way. It's usually the other way around where the big guy is the one who's actually sucking all this stuff up.

"And thirdly, Mr. Speaker. This is a \$125,000 investment. I'm not sure that the people of Hawaii at this particular junction are willing to put \$125,000 on something that's still, I believe, still unclear.

"And lastly, it's where it says that this is irrevocable. How can a corporation which is by law an individual, be irrevocable? If it's owned by people, and as said earlier, people change. They change their minds. What is in effect going to happen with an irrevocable patent such as this? It's just something maybe slightly ahead of our time. I think it needs to be a little bit more tempered. But in terms of an ingenuity corporation, I'm still not sure that it's not ingenious."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 235, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY COMPANIES," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fontaine, Pine and Ward voting no, and with Representative Saiki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 694) recommending that H.B. No. 519, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 519, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, on Stand. Com. Rep. No. 694, I stand in strong, strong support. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 519, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 50 ayes, with Representative Saiki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 696) recommending that H.B. No. 902, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 902, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support of this measure, Stand. Com. Rep. No. 696. Thank you. I wanted to commend the author of this bill, I believe he's the Representative from Mililani, as well as the colleagues who have worked to shape this bill. This is a very important bill. We've talked about it for quite a while in addressing our doctor shortage. We all know we're facing currently a shortage of 600 doctors in Hawaii. And we're going to hear later about some of the ways that we're attempting to deal with this shortage. But I've said many times over the years that the best way to deal with the shortage in doctors is to ensure that the doctors that we train at JABSOM work and live in Hawaii once they graduate.

"Now this may be difficult for some because we don't have residency programs in some unique fields so some of our graduates may have to go to the mainland for this further education and for their residency. But if the US Military can do this, and other disciplines can do this, we should be able to do this in medical school education, and that is to insist on people coming back to Hawaii. And if you come back to Hawaii and you practice in Hawaii, we will augment your loans. Help you repay your loans so that your amount that you have to pay to the banks or to the school will be minimized.

"I stand here today recommending that we move this forward and maybe look at ways that we can support this through the use of Tobacco Funds or any other funds because if we cannot ensure that our doctors come back after going through their residency program, then we're really not doing anything to address the shortfall. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 902, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Saiki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 700) recommending that H.B. No. 1069, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1069, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1069, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EFFECT OF FINDING OF UNFITNESS TO PROCEED," passed Third Reading by a vote of 50 ayes, with Representative Saiki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 702) recommending that H.B. No. 1001, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1001, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, may I have a ruling on a conflict? One of the settlements in this bill is for a client represented by members of my law firm. I'd like to be excused from voting on this bill," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1001, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Third Reading by a vote of 50 ayes, with Representative Saiki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 708) recommending that H.B. No. 863, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 863, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Saiki being excused.

At 11:45 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:47 o'clock a.m.

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

H.B. No. 235, HD 2  
H.B. No. 519, HD 1  
H.B. No. 902, HD 2  
H.B. No. 1069, HD 2  
H.B. No. 1001, HD 2  
H.B. No. 863

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

The House of Representatives reconvened at 11:49 o'clock a.m.

## LATE INTRODUCTIONS

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

Representative M. Oshiro, on behalf of Representative Riviere and himself, introduced teacher, Ms. Beth Araki and the students of Hale Kula Elementary.

## ORDINARY CALENDAR

### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 709) recommending that H.B. No. 1330, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1330, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. A potential conflict ruling, please? My grandson is at the John A. Burns School of Medicine," and the Chair ruled, "no conflict."

Representative Thielen then rose in support of the measure, stating:

"Thank you. I'm in support of the bill."

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

Representative Takai's written remarks are as follows:

"I rise in opposition to this measure.

"For the record, I am and have always been a strong supporter of the University of Hawaii and the John A Burns School of Medicine (JABSOM). What I am fundamentally opposed to is the raiding of the Hawaii Tobacco Prevention and Control Trust Fund (Tobacco Fund) to cover operational expenses.

With the passage of the bill to create the Tobacco Fund in 1999, this Body made the decision to save lives, save money and improve overall public health. The bill would have a positive impact on every resident of Hawaii, especially our children.

At the time, Hawaii was poised to become one of only five states to make a commitment to fund tobacco prevention programs beyond a minimal level, placing itself on the map as one of the National's leaders in terms of public health and education.

*Representative Takai, House Journal 1999*

"And yet, over a decade later, we are now hastily eroding that commitment by diverting more and more funding to an entity that should have had self-sustaining financial plans from the very beginning. What JABSOM is doing is, as they say, 'taking from Peter to give to Paul'. But the revenue into the Tobacco Fund is not being replenished at a proportionate rate.

"The Tobacco Fund was never designed to be used as an emergency and budget reserve fund. I would like to remind this Body of the words of Health Chair Alex Santiago back in 1999 regarding the creation of the Tobacco Fund:

Mr. Speaker, if all goes as planned, someday when we look back on all the issues and measures I have had the privilege of being involved with, this measure, I believe, will be one of those I will remember as being significant and very important with the resulting efforts to many

individuals. I want to thank you Mr. Speaker, for giving me this opportunity to manage and be involved with this measure.

*Representative Santiago, House Journal 1999*

"We have had over ten years and countless promises made by the University, the University Administration and JABSOM leadership. In recent discussions with the President, Chancellor and the Medical School personnel, I shared with them the following issues: if the concern is the lack of adequate doctors in Hawaii, there should be a requirement to stay or at least strongly encourage by incentives or disincentives; if the concern is the lack of residency programs in Hawaii, we should focus on creating residency programs centered around family practice, general medicine or respiratory and pulmonology; at the onset, there were promises made to incorporate an office of smoking and health into the new medical school; and finally, acknowledgements to the people of Hawaii and the Tobacco Fund for their generous support for the construction and operations of the medical school did not occur until just before groundbreaking at my request. Currently there is no such office of smoking and health at JABSOM. The concerns about the doctor shortage in Hawaii are recognized, but not a single penny of the funds they are raiding go towards addressing this.

"I would like to see the current measure to be amended to mandate that some of these \$4 million go specifically towards fulfilling their commitments and towards addressing the doctors' shortage in Hawaii. For too long, we have provided funding to JABSOM without writing our conditions or their promises as part of the law.

"The public expects the Legislature to be accountable for the taxes we collect and the services we provide. We should do no less to those that receive our approval and funding as well. JABSOM will go a long way in providing the next generation of healers with the knowledge and support to serve the people of Hawaii. But we cannot send them forward on the basis of broken and empty promises. Thank you."

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

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

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

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

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

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

"Mr. Speaker. In strong support and written remarks, please."

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

"Mr. Speaker, I rise in support of House Bill No. 1330, House Draft 1, Relating to The Hawaii Tobacco Settlement Special Fund.

"This bill extends the sunset date for an appropriation of a portion of the Hawaii Tobacco Settlement Special Fund moneys for annual operating expenses of the John A. Burns School of Medicine (JABSOM) until June 30, 2015. This bill also adds annual reporting requirements for the University of Hawaii.

"I support the intent and purpose of the bill as it provides valuable funding for Hawaii's one and only medical school. The Hawaii Medical Association reported that the State of Hawaii is currently short 644 physicians; a shortage that will balloon to more than 1,200 physicians in the next ten years. These numbers demonstrate an immediate need to educate and train physicians to meet the health demands of our State.

"While the effects of this shortage are certainly felt here on Oahu, the impact of the shortage is much greater on the Neighbor Islands. Cognizant of this disparity, JABSOM provides treatment and training opportunities specific to the needs of neighbor island communities, with a particular focus on rural areas. Without the funding provided in this bill, JABSOM will have to cut back such training opportunities, thus reducing services to the Neighbor Islands and rural communities.

"To support this bill is to also support JABSOM's membership with the University of Hawaii Cancer Consortium, which supports the growth and expansion of cancer research and care in our State. As an essential partner of the Consortium, JABSOM faculty and students contribute and participate in medical research, community education, outreach efforts, and other programs in conjunction with University of Hawaii Cancer Center. The Cancer Center is one of only 65 nationally recognized cancer centers and remains an important hub of research and care for cancer and cancer-related illness, often the result of tobacco use.

"As your Finance Chair, I have heard dissenting opinions about spending moneys from the Tobacco Prevention & Control Special Fund on any programs not explicitly related to tobacco prevention and cessation. Voices in opposition have taken a strong stance against use of the Special Fund for JABSOM's operating expenses. Though I understand these concerns, I turn my attention back to JABSOM's critical contributions to the Cancer Center, Hawaii's current and looming shortage of physicians, and the fact that every single medical student receives training in tobacco cessation and dependence treatment. Without the Cancer Center, the researchers, and the physicians to treat patients, we face future fiscal implications resulting from the lack of resources needed to address Hawaii's public health issues.

"Lastly, I support this bill because 90% of JABSOM's student body are *kama'aina* who were born and raised right here in our islands. JABSOM reports that more than half of its graduates remain in Hawaii, especially those who enroll in Hawaii-based residency programs. Consequently, this measure ensures a sustainable source of physicians knowledgeable about Hawaii and prepared to provide effective medical care to our communities throughout their professional careers.

"Mr. Speaker, for these aforementioned reasons and with an eye on the future of Hawaii's public health, I support this measure."

Representative C. Lee rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1330, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Belatti, C. Lee, Morita, Rhoads, Takai and Takumi voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 711) recommending that H.B. No. 560, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 560, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition. Yes, Mr. Speaker. What this bill does is it requires the Director of Finance to transfer funds from the Compliance Resolution Fund to fund all interest payments on general obligation bonds issued on the behalf of the Department of Commerce and Consumer Affairs, and to collect funds from the Compliance Resolution Fund to pay interest payments on the general obligation bonds.

"That sounds pretty reasonable, Mr. Speaker, but I've been looking over what happened in Committee and particularly the testimony. What this actually is, is it's kind of a money grab by the Legislature. This is to pay for the King Kamehameha building where the DCCA is located. And this

sounds very reasonable to say, 'Hey you should pay the interest on the building that you bought so we're going to take these funds out of the Compliance Resolution Fund which is very healthy and probably one of the most healthy funds in the State of Hawaii and right now,' Mr. Speaker. They are a self-funded department and doing much better than other departments.

"The only problem with making them pay for the King Kamehameha building and the interest is that they already paid for it. So we're technically doing a big money grab by having them pay for a building twice. And basically in 2002, we transferred \$26 million from the general fund to pay for that building. And then again in 2003 we transferred \$50 million from the Compliance Resolution Fund to pay for the building, and yet this bill is saying that we need to transfer funds to pay for the building.

"So, Mr. Speaker, I just have a lot of concerns about this. I just don't know if, well I know that in the private sector, you couldn't make a family pay for their home twice, so I have a lot of concerns for those reasons."

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

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

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

"Yes, I'd like vote with reservations. I understand the financial situation of the State, and we've got to do what we can to close the gap. But as the Representative from Ewa mentioned, it does seem unfair to keep taking money from people who have arguably already paid their bill."

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

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

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

Representative Chong's written remarks are as follows:

"Mr. Speaker, I stand in support. This bill helps the general fund and taxpayer get reimbursed for the GO bonds issued for the DCCA building. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 560, entitled: "A BILL FOR AN ACT RELATING TO FINANCE," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Marumoto and Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 712) recommending that H.B. No. 569, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 569, HD 1, pass Third Reading, seconded by Representative Evans.

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

"On Stand. Com. Rep. No. 712, I rise in opposition. Mr. Speaker, what this bill does is it changes a practice that was implemented in the Lingle Administration, which allowed for medical assistance recipients for the Medicaid programs to be automatically re-enrolled in their health benefits.

"This bill basically makes them now re-enroll every year. That's what we do so it seems like something that's not very unreasonable and could be seen as making good fiscal sense. We are making sure that those people that are enrolled truly qualify for the benefits that we're giving to them.

"In the Committee, AlohaCare and many other agencies had testified that this very action that we're taking today, the Legislature actually did many years ago. And what happened from that action was they found that for those beneficiaries with literacy or language issues, homeless, mental illness, and other barriers to accessing health care, they found that an annual re-enrollment requirement for this very population could be enough to cut them off from care resulting in expensive emergency hospital services ultimately paid by the State of Hawaii.

"And there are other bills that we'll be discussing, Mr. Speaker, that relate to homeless and the Partners In Care who is the umbrella organization for the homeless providers. They testified that when we don't take care of these types of services for the homeless, or those that are not doing very well financially, it actually costs the State up to ten times more to take care of them in other emergency services. So, Mr. Speaker, for this reason, I rise in opposition."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Ching, Fontaine, Marumoto, Pine and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 713) recommending that H.B. No. 684, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 684, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I rise in strong support of this measure. It is the intent of this bill to provide minors with the rights to assert themselves in matters regarding their safety and well being. This bill recognizes that many youth needing emergency shelter are not able to obtain parental consent in a timely manner consistent with the needs of an emergency situation.

"By acknowledging the lack of options currently available to these youth, we are addressing the need for an alternative process to which parental consent is not required to obtain emergency services. By providing minors who run away or are homeless with access to services that will increase their safety, we are confronting a danger posed by forcing these children onto the streets.

"And finally, by allowing these minors to consent for admission to an emergency youth shelter, a licensed one, we are providing a solution to a problem of the utmost importance. I appreciate the opportunity to express my support for this measure and I ask my colleagues to show the same support for this effort to protect our youth. Thank you."

Representative Awana rose in support of the measure and asked that her written remarks, and the remarks of Representative Fontaine 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 of this measure.

"Mr. Speaker, we do not all live in a perfect world where children are raised in a safe and secure environment. This bill addresses the challenges that minors have in seeking help due to circumstances beyond their control. Although we would not like to believe this takes place, there are situations where parents or guardians are substance abusers, may be

incarcerated, or may be abusive. This measure allows a minor to seek shelter – emergency shelter.

"Mr. Speaker, I ask for support from Members through the passage of this bill to ensure that there are options for our vulnerable youth other than living a life of homelessness in abandoned homes, unsheltered and exposed to the elements. And let's not forget there are predators who will take advantage of our children with nowhere else to go. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 684, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MINORS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 717) recommending that H.B. No. 563, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 563, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 718) recommending that H.B. No. 1380, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1380, HD 3, pass Third Reading, seconded by Representative Evans.

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

Representative Tsuji's written remarks are as follows:

"HB 1380 is a unique way to encourage the use of local produce in Hawaii schools by: (1) Establishing a farm-to-school program in the DOA; and (2) Establishing the Hawaii-grown Fresh Fruit and Vegetable Program in the DOE.

"School gardens are increasing in popularity. The *Honolulu Star-Advertiser* ran an article on Dec. 1, 2010 featuring schools have planted gardens to raise students' awareness of fresh food and to teach them about good nutritional choices.

"Also The Grow Hawaii Challenge took place last November involving students and staff of several Oahu schools, who were joined by well-known local chefs, all in an effort to educate students about the importance of growing food locally and to spark ideas towards ways to support a sustainable lifestyle.

"Speaking more broadly, I believe HB 1380 sets a good foundation for other initiatives like The Grow Hawaii Challenge and encourages interest in agriculture in today's younger generations. For these reasons, I am in support."

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:

"Mr. Speaker, I rise in strong support of H.B. 1380. If passed, this bill will increase access to local, healthy and fresh foods and enhance education on nutrition and agriculture, which will facilitate healthy eating habits amongst our *keiki*. Moreover, the Hawaii Grown Fresh Fruits and Vegetables program will serve as an important strategy for strengthening the Department of Education's position as an institutional market for locally grown produce.

"This bill is a sound investment in the future of our children's health, as well as Hawaii's food security. Potential benefits include lower risk for

obesity, diabetes and other related types of health disorders, keeping in line with the Vitality Project's basic tenets of promoting the health and well being of our communities. Equally as important, enhancing the procurement of locally grown fruits and vegetables by schools also helps to strengthen and diversify our local economy and create jobs."

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

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

"Thank you, Mr. Speaker. I strongly support the concepts in HB No. 1380, H.D. 3 which will establish the Farm-to-School Program in the Department of Agriculture, the Hawaii-grown Fresh Fruit and Vegetable Program in the Department of Education; and the Farmers to Food Banks Pilot Program. If Hawaii is to move towards food self-sufficiency we need to move forward with programs that support buying local and which reconnect our community with the local sources of healthy, nutritious whole foods.

"The Farm-to-School Program will increase procurement of locally-grown fruits and vegetables. The Hawaii-grown Fresh Fruit and Vegetable Program will facilitate the consumption of locally-produced nutritious snacks to improve student health and expand the market for locally-grown produce and also will authorize schools to grow food in school gardens for consumption in schools. The Farmers to Food Banks Pilot Program will contract with local farmers to provide Hawaii-grown produce to low-income individuals through designated food banks.

"All these programs are very important and will encourage the use of locally grown fruits and vegetables in Hawaii schools. This measure will support local farmers and leverage an increase in food self-sufficiency within the State of Hawaii. Now if only the bureaucrats at the Department of Agriculture and the Department of Education would move out of their agency silos and work to make these programs successful rather than poking holes in these paradigm changes. Unless Hawaii changes and moves towards sustainability, we remain perpetually hostage to the food industrial complex on the mainland."

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

Representative Nakashima's written remarks are as follows:

"House Bill 1380 establishes the Farm-to-School Program in the Department of Agriculture to increase the procurement of locally-grown fruits and vegetables and creates the Hawaii-grown Fresh Fruit and Vegetable Program to increase the amount of Hawaii produce available to Hawaii school children.

"Farm to school (F2S) is a win-win for both local farmers, as well as Hawaii school children, especially when combined with a robust school garden, cooking, agriculture and nutrition education program. This is an attempt to allow State policy to overcome the State bureaucracy and allow for the purchase of Hawaii produce for Hawaii's kids."

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

"Thank you, Mr. Speaker. In strong support. And may I have the written comments of the Chair of Agriculture entered into the record as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1380, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HAWAII-GROWN PRODUCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 720) recommending that H.B. No. 1248, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1248, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, in strong support with brief comments. This bill makes it easier for our farmers to get loans that are longer and less expensive. And, Mr. Speaker, we need to help our farmers as much as possible. From the time it was put in the Constitution, to the point where now we have farmers who are really in need of a lot of assistance because they're dying off. I commend the Chair of Agriculture, the Representative from Hilo who has really gone to bat for this bill and because of this and his plea for getting more money to the farmers. When the bill on the State Bank of Hawaii comes forward, perhaps we will not have to have so much emphasis on the government getting into business, but keeping bills like this doing well. Thank you."

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

"Mr. Speaker, in strong support of this measure. Indeed to the contrary, Mr. Speaker. This is one of the reasons why we might need a State Bank to provide support for farmers so they don't have to come to the Department of Ag for loans. Thank you."

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

Representative Nakashima's written remarks are as follows:

"I am pleased to be the sponsor of House Bill 1248 Relating to agricultural loans.

"The purpose of this bill is to enhance the new farmer loan program by reducing the interest rate, increasing the loan limit and reducing the number of credit denials required to qualify for the program. It also appropriates funds to directly target new farmers. The new farmer loan program is intended to encourage entrepreneurs to enter the production of agriculture on a full-time basis.

"Access to affordable capital is vital for start-up business and is especially difficult for new farm operators to obtain. Currently, the interest rate for the new farmer loan program is fixed at 6%. The proposal will set the interest rate at 1.5% below the prime rate with a cap of 6%. This will ensure that the interest rate for the new farmers will be below the interest rate for the qualified farmers.

"This bill will also increase the loan limit to \$250,000. This increases the limit of \$100,000 that has not been increased since the establishment of the program in 1972. This will allow loans to cover the increased capital requirements that modern farmers must face in today's economic climate.

"The bill also seeks to reduce the number of credit denials that a farmer must receive in order to qualify for the loan making the program more accessible to new farmers and help to encourage them to help Hawaii meet its food sustainability needs."

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

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

"Thank you, Mr. Speaker. In strong support. We need new farmers and new farmers need new loans. Further comments into the Journal, please."

Representative Tsuji's written remarks are as follows:

"This bill would provide affordable access to loans for new farmers through the New Farmer Program. It reduces the number of credit denials required to qualify for the Program. It also reduces the annual interest rate on Program loans. Lastly, it would raise the ceiling on Program loans by \$150,000.

"HB 1248 is another measure intended to help new farmers who are the future of Hawaii's agriculture industry. In that regard, I am in support of the measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1248, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Third Reading by a vote of 51 ayes.

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

H.B. No. 1330, HD 1  
H.B. No. 560  
H.B. No. 569, HD 1  
H.B. No. 684, HD 2  
H.B. No. 563, HD 1  
H.B. No. 1380, HD 3  
H.B. No. 1248, HD 1

#### LATE INTRODUCTIONS

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

Representative Marumoto introduced the Kindergarten and 1st grade students of Queen Liliuokalani Elementary School. They were accompanied by their teachers and staff, Ms. Amber Stanley, Ms. Samie Ketaima, Ms. Susan Mizokami, Ms. Katie Muller and Ms. Bonnie Lee, as well as parents, Ms. Lori Simao, Ms. Heather Jeppensen, Ms. Jennifer Gomes, Ms. Michelle Poasa, Ms. Sylvia Nishimura, Ms. Jan Bullock, Mr. Devon Peterson, Mr. Johnathan Sypert, Ms. Sandi Yamagata and Mr. Brandon Saigusa.

#### ORDINARY CALENDAR

#### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 721) recommending that H.B. No. 865, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 865, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker. Stand. Com. Rep. No. 721, in strong support. Mr. Speaker, this bill provides additional funding for invasive species prevention and control by raising the inspection quarantine and eradication service fee from 50 cents, to 75 cents for every 1,000 pounds of freight that is imported.

"Looking back at 2008, the Legislature established and funded its Department of Agriculture Biosecurity Program by imposing an inspection fee on imported cargo. This brought in an estimated annual income of about \$3.1 million. And last year we faced an enormous budget deficit crisis. In the past the Ag inspectors were entirely funded by general funds, now 51 inspectors are funded through this special program. And with 12 more inspectors expected to go into the fund during the course of this year, some DOA officials really expect come next year, the fund will collapse if something doesn't happen.

"If we don't fill these critical positions, the invasive species will continue to get past our ports, come into our farms, into our communities. At the peak, ag inspectors used to intercept between 300 to 400 incoming pests per month. Now it's dwindled down to 30 to 40, a mere 10 percent of the original. New pest introductions have already devastated most recently, if we can recall, the basil farms. And the recent proliferation of coqui frogs on the Island of Oahu. And quite serious, the recent malaria mosquito scare in Moanalua.

"In light of Hawaii's fiscal crisis, I realize that this increase may be a difficult burden, but I would stress that if we are serious about sustainable practices, then this is an appropriate way to fund this critical function. Mr. Speaker, I ask for your support. Thank you."

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

"Mr. Speaker, I understand the need for funds for the agricultural community. But on the other hand, this is raising the cost of freight from 50 cents to \$1 per 1,000 pounds of freight. This really increases the cost of living on our food, and everything that we bring in to Hawaii, so I am voting no on this measure. Thank you."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 865, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSPECTION FEES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 723) recommending that H.B. No. 739, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 739, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with reservations. This bill would amend current care giving requirements to specify that in Community Care Foster Family Homes approved for a maximum of three clients, the primary caregiver must be a certified nurse aide and the substitute caregiver must be a nurse aide. Under current law, the substitute caregiver must also be a certified nurse aide. While I understand the financial constraints that many adult foster homes struggle with, I do not believe that the answer is to lower the standard of care we are giving our seniors.

"In Committee we received testimony in opposition from the Department of Human Services that primary caregivers sometimes have second jobs, leaving their patients with the secondary caregiver for 10 to 12 hours a day. A certified nurse aid must renew their certification every two years and receive required additional training. I understand that there may be financial and language barriers to taking the certification test for some of our local nurse aides. The appropriate response, however, is to make the test more accessible, not to lower the required level of proficiency for secondary caregivers. Thank you, Mr. Speaker."

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

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

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

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, I rise with reservations regarding HB 739 that seeks to relax training standards for community care foster family homes by allowing a substitute caregiver to just be a nurse aide without have to meet more rigorous standards and requirements of a certified nurse aide. I believe that relaxing these standards will expose those unable to fend for themselves to a lower standard of care and threaten the quality of life for those whom the State must provide protection."

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

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

"Mr. Speaker, I rise in support of this measure. Thank you. First, I want to thank the Members who voice their concerns on this measure with a vote with reservations, or even a no vote. Certainly this Body does scrutinize measures before they pass on this Floor and I can appreciate that.

"Mr. Speaker, we have over 1,000 community care foster homes in the State of Hawaii. They provide 24-hour healthcare services to our aged and disabled. First, I'd like to address some of the concerns by our Members regarding nurse aides, compared to certified nurse aides. That's the issue in this bill.

"I wanted to share comments by Lourdes Marcelo. She's a registered nurse who trains certified nursing assistants, as well as nurse aides. I provide her comments and I'll quote her. She provides:

I have worked with many CNAs and NAs. I believe the primary difference between them are the required examinations at the initial certification and bi-annual recertification. They perform the same duties, have the same education requirements, and perform the same skills. A CNA is simply an NA who has successfully completed their examination.

"Mr. Speaker, I'd like to elaborate on Ms. Marcelo's comments. When you talk about education, an NA, a nursing aide, and a certified nursing assistant have the same education requirement. They both have to pass through this program. It has to be a State-approved nurse aide training course. Furthermore, for licensing, NAs and CNAs have the same licensing requirement. Both are required to be registered with the Department of Human Services. They contract with Community Ties of America. They do the registration and certification.

"There is a difference though when you talk about recertification and continuing education. There is a difference between NAs and CNAs. For our nurse aides, they only are required to have 16 hours of continuing education every two years. Our CNAs are required to have 24 hours of continuing education every two years, and they must be recertified. They go through a recertification examination. That is the difference.

"And finally I wanted to note the two layers of protection when we talk about consumer protection. First, we have Community Ties of America. They provide the overview to make sure that our foster homes, as well as our NAs and CNAs are following State and federal laws. They provide personnel and staffing review, background checks, physical environment reviews, fire safety, medication, and nutrition overview, quality assurance. I can go on and on. This is the first layer of protection to make sure that we're not having substandard care.



"Second, Mr. Speaker. This is the second layer of protection. Case managers. Every single foster home in the State has a case manager. Your case manager is in charge of every single nurse aide, or certified nursing assistant. I believe these two layers of protection are quite sufficient to ensure quality services and consumer protection.

"And finally, I did want to note that the Filipino Chamber of Commerce had a legislative breakfast before Session which many of our Members attended. This was their number one priority. Their top bill for the 2011 Legislative Session. Bryan Andaya had stated that 90% of our community care foster home operators are of Filipino descent. They're quite proud of the Filipino community and what they do. So again, for those reasons I support this measure. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, I rise in support of HB 739 regarding community care foster family homes. The purpose of this bill is to amend the current Community Care Foster Family Home caregiver requirements to specify that in the CCFFH's approved for a maximum of three clients the primary caregiver must be a certified nurse aide and the substitute caregiver must be a nurse aide.

"Because the substitute caregiver assumes the responsibilities of the primary caregiver whenever the primary caregiver is absent from the home, the substitute caregiver must have the same qualifications as the primary caregiver in order to adequately care for the needs of the clients. For the health, safety and welfare of each client residing in the CCFFH, the substitute caregiver must be as knowledgeable and competent as the primary caregiver. However, the competency level and the ability to pass the certificate test are often not in sync because of language access issues.

"Testimony provided asserts that not only is the certificate exam quite expensive, but also only given in English. Consider that a large number of CNA's do not speak English as a first language; it would be wise for the Department to provide an alternative exam. Certificate for all CNA's should still be a desired goal. I urge the Members to support this bill."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 739, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Belatti, C. Lee, Luke and Morita voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 724) recommending that H.B. No. 798, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 798, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Belatti and Takai voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 725) recommending that H.B. No. 803, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 803, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Ching, Fontaine, Johanson and Riviere voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 726) recommending that H.B. No. 879, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 879, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. May I have a ruling on a potential conflict? My family's currently the subject of a collateral third-party foreclosure and we're also within remediation," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 879, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 727) recommending that H.B. No. 1043, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1043, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this measure. Mr. Speaker, this bill raids for the second time, the Hawaii Hurricane Relief Fund. We did this before to the tune of \$67 million, and now we're going to take \$42 million out of the Relief Fund. And essentially when it was filled to the brim, we could cover 165,000 houses at a value of about \$40 billion. Right now it's down to where if this bill goes through it'll be down to about \$70 million. \$70 million buys you about \$700 million worth of coverage.

"*Iniki* was \$1.6 billion and because we are perpetually and never moving out of the hurricane zone that we're in, the point is, if *Iniki* comes again, God willing it will never, but if it does, we are underfunding this and this bill jeopardizes public safety. It's not a question of if. It's when it is coming, and we should be prepared. Good public policy would say don't raid this Fund like we shouldn't have raided the Highway Fund, etc. etc., Mr. Speaker. Thank you."

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

"Thank you. In support. I just wanted to note that I believe when the last Governor signed the prior bill to take money from the Hawaii Hurricane Relief Fund, she did note that no matter what the balance of the Fund is, that bonds can be floated and other means can be had to basically reinstate insurance should it be needed in the event of a hurricane. Thank you."

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise with reservations on this bill. While I understand our State is in a difficult fiscal position that requires sacrifices and compromises, I also recognize the consequences of using allotted funds from one program or fund to pay for something completely different.

"Our State government should not make it a habit to require our people to pay certain fees to help create a reinsurance mechanism in anticipation of a potential hurricane and use the money for something unrelated. Because of the situation we find ourselves in now, I do find that it may be necessary to utilize some of the Hurricane Relief Funds to offset some of our fixed costs that directly impact quality of life issues for our people. I prefer to borrow the money as opposed to an outright raid and have significant reservations on this measure.

"We must remain vigilant in our fiscal decisions as a Legislature and truly take into account all those affected as well as the long-term consequences of our actions."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I was in CPC when we passed the original bill, and it was a result of *Iniki* when all the insurance companies left town. They're all back. As far as who paid into the Fund, we collected money from every place. And if you happen to have a policy, you got coverage for your policy. So you got what you paid for. My position is that the HHRF should be changed from a direct insurer, because there's no reason for us to do that, to be a reinsurer. And we get much more coverage if we became a reinsurer. Thank you."

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

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

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

"Mr. Speaker, in support. It seems to be that if we're not going to take money out of funds like this, we're going to have to raise taxes. And I think for most of us in this Body would prefer to take money from Funds like this rather than to raise taxes. 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. 1043, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Ching, Pine, Thielen and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 728) recommending that H.B. No. 422, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 422, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Third Reading by a vote of 51 ayes.

At 12:18 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 865, HD 2  
H.B. No. 739, HD 2  
H.B. No. 798, HD 1  
H.B. No. 803, HD 1  
H.B. No. 879, HD 1  
H.B. No. 1043, HD 1  
H.B. No. 422, HD 2

#### LATE INTRODUCTIONS

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

Representative M. Oshiro introduced a second group of from Hale Kula Elementary School, and their teachers, Ms. Michelle Nakasone and Ms. Nani Grant.

At this time, the Chair announced:

"Members, at this point I would like to say that the Senate is much more efficient and effective. The completed their work before 12 noon and I commend the President for a job well done. Let's proceed on before we break for lunch."

#### ORDINARY CALENDAR

#### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 729) recommending that H.B. No. 423, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 423, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Cabanilla being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 730) recommending that H.B. No. 786, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 786, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. On Stand. Com. Rep. No. 730, Mr. Speaker, the solid waste surcharge. I have reservations about that because it will hit all of our residents here in the State. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 786, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Ching, Fontaine, Johanson, Pine, Riviere and Ward voting no, and with Representative Cabanilla being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 735) recommending that H.B. No. 1019, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1019, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1019, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABILITY," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Brower, Cullen and Yamane voting no, and with Representative Cabanilla being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 736) recommending that H.B. No. 1239, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1239, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

"I stand in opposition. Very briefly, the State shouldn't be getting into a ferry business. We should be encouraging a private entity to come out and create a ferry system. Thank you."

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

"Thank you, Mr. Speaker. With reservations, please. And may I have my comments given on Second Reading of this measure entered into the Journal for Third Reading," and the Chair "so ordered." (By reference only.)

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

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? Given my pending appointment to the PUC, may I be excused from this vote?"

The Chair responded, stating:

"On Stand. Com. Rep. No. 736, Relating to Ferries. So ordered. You are excused on this particular measure."

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

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

"Just in opposition, Mr. Speaker. And a couple of comments. Yes, this legislation is drafted in particular with Alaska in mind, that uses the water as another highway system for them. It's a very good intention and it would be nice to have something like what Alaska has. And I was very much in support of the Superferry because I thought they did a good job in the private sector without investing public funds. But unfortunately that's not an option for us.

"I'm concerned, Mr. Speaker. Speaker Emeritus said that we cannot pay for what we want now. And we've been doing that for years, we've been providing a lot of services to the people of Hawaii that we cannot afford. And so this adds a huge, huge debt to our budget if we were to implement an actual ferry system run by the State of Hawaii.

"There was one problem with Alaska, and that is now they are millions and millions of dollars in debt because of this highway system, and so that's why I'm in opposition. I do know that the people that introduced this were very much in favor of the Superferry, so I understand their heart and their intent. But based on Speaker Emeritus' comments earlier, I will have to vote no."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1239, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FERRIES," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Fontaine and Pine voting no, and with Representatives Cabanilla and Morita being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 740) recommending that H.B. No. 993, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 993, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 993, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MARINE HIGHWAY SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Cabanilla being excused.

At 12:24 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 423, HD 1  
H.B. No. 786, HD 2  
H.B. No. 1019, HD 1  
H.B. No. 1239, HD 1  
H.B. No. 993, HD 1

At this time, the Chair announced:

"Members, at this time we will take a half hour lunch break and return at 12:55 p.m."

At 12:25 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:08 o'clock p.m. with Vice Speaker Manahan presiding.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 741) recommending that H.B. No. 1100, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1100, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER FACILITY CHARGES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 743) recommending that H.B. No. 550, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 550, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TELEVISION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 747) recommending that H.B. No. 1435, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1435, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I'm standing with reservations too. I'm in agreement with the initial bill, but I'm in disagreement with the portion that gives those who've already gotten a lifetime revocation of their driver's licenses a fourth or fifth chance. I hope the bill moves forward, but I hope when it comes out of Conference it's back to the original. Mahalo."

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

"Mr. Speaker, likewise with reservations. I prefer the original bill. Thank you."

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

"Yes, I stand in opposition for that very reason, giving licensees who have lost their license permanently and allowing them to now get their license back again. There was a reason why they lost their license in the first place and I don't think we should be going down that road. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. Mr. Speaker, first may I request that my comments on Second Reading be incorporated into the Journal for Third Reading."

"In addition, the bill that came out of Finance currently has two major amendments which I think really abate the whole purpose of this bill. There are serious concerns because, first of all, a new section was added regarding lifetime revocations which some of the Members have already discussed. And secondly the task force, the Ignition Interlock Task Force was sunset at the conclusion of this bill."

"My current concern is the lack of safeguards and specificity with the subsequent proposed amendments, specifically in sections 15 and 16, which would permit individuals who have previously received an administrative lifetime revocation of their licensees to be able to drive with an ignition interlock device and to be eligible for relicensing. These additionally proposed amendments not originally contemplated by the task force make implementation by the ADLRO burdensome and in some cases impossible without further study and specificity of the processes needed to be reasonably implemented into this overly broad language."

"For example, section 16 of the bill authorizes the ADLRO to issue a temporary permit to those individuals who have received an administrative lifetime revocation of their license. However, there is not the usual motor vehicle licensing requirement such as a vision test or a road test."

"So, Mr. Speaker, for example, people who have had their licenses temporarily revoked oftentimes have to take an eye test just to ensure that they can still, or at a certain age they're required to take an eye test or even to take a written test. Unfortunately, this bill does not apply those particular prerequisites to the person who has had an administrative revocation of their license."

"In addition, I think that the task force being sunsetted is quite a travesty given the fact that the task force, now that the ignition interlock law has gone into effect on January 1st, 2011, they still have a very important role to play in helping our State ensure that the law is being implemented correctly. And again, they need to examine this very complicated issue regarding lifetime revocations. So we still want to get as many people into this program, but the bill as it stands right now currently has some very serious flaws, and accordingly I go with reservations. Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, with reservations and a brief comment. Mr. Speaker, regardless of what bill we come up with, we have to face the reality, and this came out of the hearing in Finance, that there's 1,800 to 2,000 multiple

DUI drivers out there. They get caught. They get the penalties. They lose their license. They get back in the car. Get caught. Go through a series of things that which we have not been able to keep them off the road. This is really a clear and present danger to the public, so for the following reasons we've got to work on it and work on it well. And without reservations, we've got to get them off the highway. Thank you."

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

"Thank you, Mr. Speaker. In opposition as well, and I ask that the words of the Representative of Kapolei be entered as my own. But I also wanted to add that Mothers Against Drunk Driving, I believe is still in opposition. And we have to consider how many times a person has actually driven drunk before they're actually caught. Probably a lot. Thank you."

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

"Yes, Mr. Speaker and Members. I wish to speak very strongly for this measure. I believe the interlock will save lives. It will allow people to go to work and support the family, or whatever driving activities they need to do in case they get caught for DUI. But more importantly, it will keep them from drinking while they're on the road. Of course, they will have to blow into the instrument and if they've had any alcohol, the car won't go at all."

"This is the main reason for the interlock, to save lives. Now we have made a change in the bill from the House Transportation Committee and that was to include those drivers that lost their license permanently. And nobody condones the reason why they lost their license. They drank excessively a number of times. They got caught a number of times. But they have been, for many of them, for 15 or 20 years without having the ability to have a license or drive a car. This hurts them and it hurts their family. Believe me, when you're punished for 10, or 15, or 20 years, that would seem to be sufficient punishment."

"Now you know that manslaughter and other major crimes, they all go out after a few years. After 5, 6, 10 years, they're out. They're free. With those who lost their driver's license, it becomes permanent. So this bill attempts to rectify that and to allow them to drive, provided that during the course of the time that they lost their license, they have not gotten into any cases of driving without a license, or gotten into any major crimes, any abuse, or any of those types of things. The Judiciary will check their record. If they're clean and they can show they're clean, then they have to go back to drivers' licensing and apply for their license."

"That means they don't just get their license. They've got to take their license test again, and they've got to pass their test. But first of all, they've got to pass the test since they've been without a license for years, that they have been basically free of crime and drinking, or not drinking and driving, because many do after they lose their license. So this will give them the ability to come back and be a part of society and be a productive person."

"Now yes, I approached the task force a number of times and asked if they could work on this measure to allow those with permanent revocations to come back into the system. The task force last year said they would do it this year. This year, they said they would do it next year. I don't believe that for a measure like this that you need to have a whole year to develop the appropriate language. In working with some attorneys, we have developed some language that is a talking piece right now. It's not the perfect talking piece, but it's a talking piece, so that we can move it along and get the appropriate language by the end of the Session. It's a work in progress. But to wait another year, I believe, is sinful."

"Now the task force is very important, and I understand that. I helped to create the task force. But the task force does not make laws. We make the laws. They suggest. They recommend. But it is up to us to accept or not to accept. And this is the measure that I'm proposing now, and I ask you to support this measure as a work in progress. It needs to go to the Senate, and I hope we can improve what needs to be improved in the Senate. Thank you, very much."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief rebuttal, but still with reservations. I appreciate the passion and the substantive remarks of the honorable gentleman from Maui, however I suspect he's talking about the law-abiding citizens who are in the small minority.

"If in effect, as I said earlier, we have 2,000 repeat DUI offenders out there subjecting all of our mothers, children and friends, endangering their lives on a daily basis. If the speaker from Maui can come back saying those are really small compared to the law-abiding ones, I will change my vote on this. But until that's the case, there are too many out there. I suspect he's talking about the very few who may be the law abiding, who waited 10 or 15 years and have not driven. Whereas these other ones are out with abandon if you will, doing multiple DUIs. Thank you."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. Just very briefly. Still in support with reservations. In rebuttal to the Chair of the Transportation Committee for whom I have great respect. I think the issue as the bill stands right now deals with the fact that there are no safeguards with respect to lifetime revocations. So again, going back to for example, section 16. It authorizes ADLRO to issue a temporary permit to individuals who have had their licenses revoked for a lifetime.

"Yet there is none of the usual motor vehicle licensing requirements such as taking a test, such as taking an eye test to ensure that these drivers who allegedly have not been driving for an extended period of time are still physically fit to drive.

"And so all I'm saying right now is, again, if we want to deal with the lifetime revocations in one fell swoop, notwithstanding the fact that it is a complicated issue, that's fine. But again, we need to have some safeguards to ensure that those people who have in fact received a lifetime revocation, and again a lifetime revocation means that you've been in trouble four times within a period of six years.

"So again, let's just be reminded, driving is a privilege and that person has obviously shown to the State that they've abused that privilege and therefore that's why the privilege was taken away for their lifetime.

"If as a Body we want to go back and say it's too harsh, that's fine. But my only point right now is this: let's make sure that the safeguards are in there so that those who have had their licenses revoked for their lifetime have the same standards as the rest of us. Thank you, Mr. Speaker."

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

"In opposition, Mr. Speaker. I can sympathize with some of the words that Speaker Emeritus said about allowing someone to work, and allowing someone to support their family, but I cannot support any vehicle that allows someone that has taken their license away for a lifetime, just so we can pass something else later on. Because as a statement today, I'm in opposition of giving anyone their license back.

"When I was in sixth grade, I lost my first friend through a drunk driver. When I was in eighth grade, I lost another friend through a drunk driver. When I was in tenth grade, I lost an uncle through a drunk driver. Talk about affecting people's lives. That one time that that drunk driver drove at the wrong time where my friends were at, that ruined their lives forever.

"And it's just too emotional to say more names that I know. This is serious stuff. These people have a disease and their car is a weapon. I know friends and family now that are alcoholics. I love them, but they have a disease and we are giving them a weapon to kill more people. I cannot support this bill, Mr. Speaker, because these people cannot be helped sometimes.

"Maybe by not passing this and ending this legislation, we're going to save lives. We're going to save that person's life that we want to give another chance to drive. This is too risky to allow, and that is the punishment that we give them, Mr. Speaker. Everyone knows in this Body, to get even caught one time, most likely you've been driving twenty times

drunk to be caught. Or you're just really unlucky to be caught the first time. So four times, that's multiple times of risking people's lives, Mr. Speaker.

"I wish that some of my friends that are alcoholic now, I wish they would be caught four times so we can take their license away. Every time they drive I wonder who is next.

"So, Mr. Speaker, this is very serious and probably one of the most important bills that we can make a statement on, Mr. Speaker. To reject that next chance in order to save another life."

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

Representative Har rose to respond, stating:

"My third time, Mr. Speaker, and I apologize to the Members. I just wanted to be clear on something. The fact of the matter is that whether we like it or not, those who are repeat offenders who do not currently have the privilege to drive, and those who have lifetime revocations, are still driving.

"Mr. Speaker, in fact the gentleman who hit me had had three DUIs. His license had been revoked. He had no insurance. He had no license. He had no registration. He was on the road.

"And so the point here again is, if we want to add in those who have had administrative revocations because we want to get as many people into the interlock program as a policy, if that's what we want to do as a Body, that's okay with me. But my only point is, right now the current version of the bill does not have those safeguards to ensure that those who have had lifetime revocations are held to the same standards to ensure that they are physically able to drive. Thank you, Mr. Speaker."

Representative Souki rose to respond, stating:

"My second time. For the Members, I just want to state that it doesn't take one year to draw up the safeguards and I challenge the previous speaker to come up with the safeguards before the Session is over. Thank you."

Representative Har rose to respond, stating:

"Excuse me, Mr. Speaker. My fourth time. In response to the previous speaker."

Representative Blake Oshiro rose to a point of order, stating:

"Point of order, Mr. Speaker."

Representative Souki rose and stated:

"Mr. Speaker, this is not in line. Tell her to cool it a little bit."

Representative Har rose and stated:

"He asked me a question."

At 1:27 o'clock p.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1435, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Fontaine and Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 750) recommending that H.B. No. 1457, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1457, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition with brief comments. Mr. Speaker, like you, like probably the majority of us here, we were educated at the University of Hawaii. We have a degree at the University of Hawaii. In fact, I have the honor of getting one of their higher degrees. And even though we're supposed to be smart, I don't understand this bill.

"Because we're telling the University, 'If you don't get these guys graduated, we're going to take money away from you'. I'm not sure that what we've asked our land-grant college that is the cradle and the future of the brain trust that we have in Hawaii, is for good.

"If kids do not graduate on time, why we should turn around and, as it says here, the Director of B&F will assess the UH for additional costs to the State based upon the findings of the report that they put together based upon how many people have graduated, how many have reserved credits, and they're not out the door, nor have they put a major forth to be categorized as a student.

"One of our Members has calculated that if this bill was effect, probably about 70% of the students would come underneath it. The reasons in this bill do not relate to family responsibilities or job-related duties, or financial reasons. We just say, 'If you're not in and you get out, give back the money, UH.' That doesn't sound like a University that we've given autonomy to, nor is it a University that we believe fully in and what it's doing to educate the people of Hawaii. So for those reasons, Mr. Speaker, I don't understand this bill and there's no reason to vote for it. Thank you."

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

"Thank you. In support with reservations. I actually think the underlying premise of this bill is a really good one in terms of trying to make UH not only fulfill its mission as a educational institution, but not necessarily serve as an added drain on the State resources that are essentially subsidizing students who can graduate, but who choose to stay there. Since there is an added cost to the State I think it's a really well intentioned bill.

"My only concern with this particular measure is because of the potential levying of assessments on UH, I would hope that maybe in future iterations of this bill we could either have a transition period which allows UH perhaps sufficient time to be able to expedite the graduation process for those students who are on their rolls now so that they don't, in the interim, hemorrhage a lot of their money.

"My concern may be obviated because the effective date is not for a while, but if that date is changed I do think that a potential unintended consequence is that UH could lose a lot of funding very quickly in a manner that leaves them potentially, adversely impacted with achieving their mission.

"So I think there is a large population of students who can afford to graduate, hence the reason for this particular measure. I think it's something that we need to consider and it's worthy and well intentioned. I just hope as we look at the effective date, we keep in mind how that may impact UH's core function. Thank you."

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

"Mr. Speaker, I have reservations on this measure and I'd like the thoughts of the last two speakers incorporated as my own."

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

Representative Chong's written remarks are as follows:

"Mr. Speaker, I stand in support. This bill with blank amounts for the credit threshold is designed to minimize the impact to the general fund for students who are well past their minimum credit hours for graduation. In rebuttal, it will not affect 70% of students. Second, this bill is not based on time, but credits. Thank you."

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

"Mr. Speaker. Thank you. Just briefly on the measure. In support. I just wanted to, for the edification of our Members, just talk a little bit about how great a deal the University of Hawaii is. It's a great deal. It's a great deal for all of our citizens. It's so great a deal that I think we've got one of the best university systems throughout the nation.

"What you may not realize is that the cost of educating a student at the University of Hawaii at Manoa for example, is only about 25%. In other words, what they pay for their tuition money for an in-state resident student is about 25% of the cost of education. For a community college student, it's considerably less. It's about 15%.

"So where does the other money come from? The other money actually comes from the taxpayers of this State, or from grants from the feds and from other places. So I think this bill, what it's trying to do is it's trying to address the shortage of funds throughout the system and throughout the State, and it's telling the University that despite their best efforts in the past few years of increasing tuition dollars and trying to push students through the system, they've got to do a better job.

"And it's also putting students on notice that if you can't graduate or if you stay past the number of requisite credits for a baccalaureate or an associate's degree at our ten university campuses, then there's a consequence to that. Right now there's no consequence. So someone can stay at the University of Hawaii at Manoa for years, and years, and years, and take 200 plus credits, and we're paying. The taxpayers of this State, the Legislature, everybody is paying in addition to that student. I think that's the point of this measure. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, a brief rebuttal. The gentleman rightly so, says UH is a great deal. It's supposed to be a great deal. That's the purpose of a land grant college. So those students from your own state can be educated, and put into the labor force, be productive, and good citizens.

"What this bill fails to respond to is that's the core function of government. If we're going to start 'nickel and diming' the University, why don't we go onto the bus system? Every time you get on the bus, 35% of what the bus costs to take you where you're going, is what the fare box has. You pay 35%, and 65% is the subsidy. When we build the train, if we build it, it's going to be the same way. Because it is a core function, and we believe there is a duty, if you will, of government to subsidize.

"So these figures of 25% is nothing new, but it's a core function of which we have an obligation to educate the future generations. I think this bill goes a step backwards by making us accountable to graduate within a certain time frame.

"The danger is right now we have people 25 years and older more educated than people 25 years and younger. That's a danger sign that heretofore parents were always less educated than their children. Now it's the parents are more educated than the children. We can't dumb down the University System by taking away their money the way this bill does. We've got to encourage them. We've got to incentivize them. And I know the University is working on that particularly with the native Hawaiian population and it's doing an excellent job. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1457, HD 1, entitled: "A BILL

FOR AN ACT RELATING TO HIGHER EDUCATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 752) recommending that H.B. No. 338, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 338, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Keith-Agaran voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 753) recommending that H.B. No. 625, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 625, HD 3, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 625, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

At 1:37 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1100, HD 1  
H.B. No. 550, HD 1  
H.B. No. 1435, HD 2  
H.B. No. 1457, HD 1  
H.B. No. 338, HD 2  
H.B. No. 625, HD 3

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 756) recommending that H.B. No. 1056, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1056, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF PRINCIPALS AND VICE-PRINCIPALS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 758) recommending that H.B. No. 1058, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1058, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1058, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL INVESTMENTS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 762) recommending that H.B. No. 121, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 121, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I'm standing in strong support of this measure. The Civil Air Patrol is a volunteer organization that provides vital services to the State like inland search and rescue, and tsunami alerts, especially in our rural areas on the Neighbor Islands. An appropriation is important because of reductions in federal funding for disaster training. This bill will help the Civil Air Patrol maintain constant readiness, which during a disaster could mean the difference between life and death for many of our residents. Thank you."

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

"Mr. Speaker, may I have a ruling on a potential conflict? I am a volunteer Major with the Civil Air Patrol," and the Chair ruled, "no conflict."

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

"I am also standing in support with some brief comments. This organization has been actively involved in preparing with our military, as well as first responders on a number of occasions. Mr. Speaker, myself, as well as my office manager, Danielle Bass, have also been actively involved in promoting and supporting volunteer actions in regards to preparation for any type of natural or manmade disasters. I would like to highlight the accomplishments of the Civil Air Patrol. Thank you."

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict. I too am an honorary officer in the Civil Air Patrol," and the Chair ruled, "no conflict."

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

"Thank you. I'm in strong support. I would like the words of the previous speaker entered in the Journal as if they were my own, and a brief additional comment. Nowhere has the value of the Civil Air Patrol been seen than recently when we had the tsunami scare. Well it wasn't a scare. A wave showed up. It just wasn't very big, thanks to the troughing effect.

"But in any event, without the Civil Air Patrol, there were numerous people in numerous areas who would have never gotten any warning at all. And given still the deficiencies in telecommunications in a lot of these areas, the Civil Air Patrol is our first response of information to save lives, so this is very important. Thank you."

Representative M. Lee rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I just would like a ruling on a conflict. I'm a volunteer Major with an auxiliary of the Civil Air Patrol," and the Chair ruled, "no conflict."

Representative M. Lee continued in support of the measure and asked that the remarks of Representatives Fontaine, Yamane and McKelvey be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"I have the same conflict," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 121, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII CIVIL AIR PATROL," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 763) recommending that H.B. No. 130, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 130, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

"Mr. Speaker, I rise in support of HB 130 regarding community reintegration. This is a bill that is a part of the 2011 Women's Legislative Caucus Package.

"The purpose of this bill is to require the Department of Public Safety to determine the number of women who are eligible for reintegration into the community and contract with providers of gender-responsive community service to assist women in successfully transitioning back into the community.

"Transferring money from corrections to community reintegration beds is a more productive way of treating women who break the law; addressing their needs appropriately and helping them learn how to live more pro-social and fulfilling lives. Many of our incarcerated women have been mothers since their teens. They need help navigating their way into the work-a-day world. Community based gender responsive reintegration programs can help them chart a more positive course for their lives as well as the lives of their children. I urge the members to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 130, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY REINTEGRATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 765) recommending that H.B. No. 277, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 277, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MILITARY AFFAIRS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 772) recommending that H.B. No. 1622, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1622, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1622, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 773) recommending that H.B. No. 1035, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1035, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Yes, Mr. Speaker. I have strong reservations on Stand. Com. Report No. 773. House Bill No. 1035."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1035, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES' RETIREMENT SYSTEM BENEFIT ENHANCEMENT MORATORIUM," passed Third Reading by a vote of 51 ayes.

At 1:43 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1056, HD 1  
H.B. No. 1058, HD 1  
H.B. No. 121, HD 1  
H.B. No. 130, HD 1  
H.B. No. 277, HD 2  
H.B. No. 1622, HD 1  
H.B. No. 1035, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 774) recommending that H.B. No. 884, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 884, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 775) recommending that H.B. No. 1243, HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1243, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REPACKAGED DRUGS AND COMPOUND MEDICATIONS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fontaine and Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 779) recommending that H.B. No. 466, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 466, HD 3, pass Third Reading, seconded by Representative Evans.

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

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

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

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



The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 466, HD 3, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fontaine, Johanson, Marumoto and Riviere voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 784) recommending that H.B. No. 1268, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1268, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Johanson, Riviere and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 785) recommending that H.B. No. 1434, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1434, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. On Standing Committee Report No. 785, can I please get a ruling on a potential conflict? I represent contractors at my law firm. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, I stand in opposition. When this first came in to Committee it was, 'three mistakes and then you were out' as a contractor. Then we raised it to six, and amended it. And I understand now it's back to three. And this only means that one contractor, say he makes a mistake in one pay period involving three employees, it means that he's out of the pool on bidding on public works projects for this period of time, and I think that's a little harsh on the construction industry. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1434, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORK PROJECTS," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 788) recommending that H.B. No. 70, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 70, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I am rising in strong support of this measure. This bill is a responsible short-term solution that should only serve as a part of a comprehensive approach to addressing the urgent homelessness situation in Hawaii.

"There are countless homeless individuals that come to Hawaii because of the climate and the well-known availability of social services. These are costs that drain our resources from assisting our local homeless population.

"We should allow individuals with certified family and economic ties in their home state, to receive the option and support to return to home. These individuals must apply for processing and must be recipients of social services for a period of 1 year before consideration. This will prevent abuse of the program, and ensure responsible implementation.

"Not including medical or cash benefits, the State of Hawaii spends approximately \$314.00 per person PER MONTH on food stamps, over \$600.00 in cash assistance per month, and over a thousand dollars per month in outreach services and medical care.

"This program does not expel homeless individuals out of Hawaii. The proposed law states that the person must be willing. By allowing the individual's return, the State will be making an investment. We need to spend our meager resources for our own people and for those the issue of homelessness is all of our problems.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 70, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Keith-Agaran, and C. Lee voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 789) recommending that H.B. No. 1306, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1306, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I am rising in strong support of this measure. This bill will allow affordable housing development to continue responsibly and transparently.

"Our State budget is strained as it is. We are squeezing for every penny, and I know that the Governor and this Legislature will leave no stone unturned.

"As Representatives of our constituents we must make these difficult decisions readily. Eliminating county GET exemptions for will open up options and allow the State to responsibly fund government and provide services to the taxpayers and residents.

"That is why I urge my colleagues to support this bill- to have accountability and to ensure that tax exemption status is being awarded fairly and accordingly."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1306, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 51 ayes.

At 1:46 o'clock p.m. Representative Thielen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:48 o'clock p.m.

At 1:50 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 884, HD 1  
 H.B. No. 1243, HD 2  
 H.B. No. 466, HD 3  
 H.B. No. 1268, HD 1  
 H.B. No. 1434, HD 2  
 H.B. No. 70, HD 2  
 H.B. No. 1306, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 790) recommending that H.B. No. 382, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 382, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak against this measure. House Bill 382 would allow the Legislative Auditor to examine without exception, the records of the State Department of Taxation including personal tax returns of Hawaii residents which includes everyone in this room, and all of your constituents.

"Tax returns contain highly confidential and highly sensitive information and for this reason, the access to the records has been confined up until now, to duly accredited tax officials of the United States and the respective states.

"The bill permits a non-tax official, namely the Legislative Auditor, to examine this personal tax information, even though she has no authority to collect taxes or administer tax laws.

"My remarks go on, but I know the Majority Leader is counting pages and so if I could have the rest of them submitted to the Journal. But I would really ask the Members to look at this. The adequate safeguards are not in the bill and unless they're put in by the Senate, I would suggest that this bill should not go forward.

"There's a lot of difficulty with personal information being released now. There's another measure on here that I think sets up a fine system for those entities that allow that to happen, and if we are now expanding beyond the normal scope of tax officials, if we're expanding the ability to look at that information, then we need to have some pretty serious safeguards in place. We also need to make sure that this conforms with the IRS requirements. So let's take a real hard look at this before it becomes a bill that we would send up to the Fifth Floor. Thank you."

Representative Thielen's written remarks are as follows:

"Although HB 382 attempts to subject the Auditor to the confidentiality and penalty provisions in our tax statutes, it clearly allows the Auditor to determine what internal policies she will use to protect tax data without anyone checking the soundness of these procedures.

"The State Director of Taxation expressed concern with giving the Auditor access to tax information and recommended at a minimum that a written agreement be developed.

"I am concerned that whatever standards are developed may not meet the standard set by the Federal IRS for disclosure of tax information.

"Taxes have been collected year after year by the State without the need for the Auditor to look over the shoulder of State tax collectors. No one has provided convincing evidence that the Tax Department needs the Auditor to second guess their work.

"For these reasons I urge my colleagues to vote against this bill."

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

"Thank you, Mr. Speaker. With reservations as well. And also to note that not even the DOTAX people themselves have access to the records in their entirety. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 382, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 791) recommending that H.B. No. 250, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 250, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT OF ATTORNEYS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Cabanilla voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 792) recommending that H.B. No. 1012, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1012, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in strong support of this measure. This bill is all about the Asia-Pacific Economic Cooperation, better known as APEC. And APEC is probably one of the most exciting, the most ... What's the word after you're excited and you win? It's one of those. We've got a chance to make it big on the world stage.

"APEC is in November of this year. It's coming along. This bill will help fund it. It's an opportunity that if we do well on the world stage with the 21 nations that we're going to host in the first week of November, we will have a repeat of what otherwise we will do historically in 2011.

"Myself and others. There are a few of us who would love to see Hawaii become the Geneva of the Pacific. The epicenter of diplomacy. So when Fiji is having its internal problems, or the North and the South Koreans, they send them to Hawaii. We haven't realized yet, but this is our opportunity to be like *American Idol*. We're up on the stage, this is our chance to do it, and this is going to be a bill to help fund that.

"And Mr. Speaker, just as an FYI. My office is working with the Governor's Office and Speaker Boehner's Office in the US Congress to make sure that the security funds are here to keep the peace during that Conference. We're going to do all that we can do to make sure that the US Congress knows that this is Hawaii's chance, and will go to bat with us, including Hawaii's own native son, Barack Obama, whom I'm sure is going to be helping get those funds released.

"So for those reasons, Mr. Speaker, this is all about Hawaii's future. It's a very important bill and I'm very pleased. I don't want to get the reputation that I always stand up and say no. This is one of the most emphatic 'yays' that I will give. Thank you."

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

"Thank you I'd like to adopt the words of the previous speaker. In strong support. Winning."

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I stand in strong support. The Asia-Pacific Economic Cooperation scheduled to be held this November is a rare opportunity for our Host State of Hawaii to share with the people from the Pacific Rim the spirit of Aloha. While we host this event, we need to ensure the safety of our guests. This measure will provide an emergency appropriation for that reason.

"As the Chair for the House Committee on International Affairs, I believe this measure is of paramount importance. At the hearing held last month, the amount requested was not provided due to issues relating to homeland security. However, Members will have the opportunity to attend an informational briefing in a few days to hear from APEC Host Committee Leaders in which opportunities will be provided to inquire about these and other issues of importance.

"We will continue to dialogue with the APEC organization until the responses are adequately provided. I ask for the Members' indulgence as we move this measure forward. This bill is a work in progress. Again, please know that we will be monitoring this event. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1012, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 798) recommending that H.B. No. 260, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 260, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 799) recommending that H.B. No. 383, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 383, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like a ruling on a potential conflict. I previously served as a member of this Commission," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 383, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE FEDERAL ECONOMIC STIMULUS PROGRAM OVERSIGHT COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 801) recommending that H.B. No. 1307, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1307, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1307, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 804) recommending that H.B. No. 314, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 314, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this measure. Thank you. I believe that it will be more costly and it adds another layer of authority to a process that already works well. The County of Kauai provides a great service in disaster preparedness. I respect and admire the good work that they do and do not believe that another agency would help. Thank you."

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

"Thank you, Mr. Speaker. The House has passed this bill every year for the last eight years for good reason. We're not prepared for a natural disaster statewide. Civil Defense's attitude is to be prepared to respond to a natural disaster. What this bill calls for is a Commission to get us prepared before an event happens.

"Eight years ago, Representatives and I met with professors from the University who said that it was absolutely essential for us to map this State for all natural disasters with some degree of intensity and frequency. We've never mapped hurricanes for this State. We need to know what the probability is. Wherever you live, you should know what the probability is of any natural disaster hitting you.

"A few years ago we passed a bill and I never should have let it out of Committee, giving you a tax credit if you harden your home against hurricanes. Where I live, there are no hurricanes. Earthquakes is what I'm dealing with. So our building codes are not based on natural disasters because we don't know the maps. We need to get the maps and that's what this Commission is all about.

"Professor Kim at the University was going to do this work. Unfortunately, the \$8 million that our Senior Senator had appropriated wasn't earmarked and we lost that.

"Let me give you an example. We haven't learned from New Orleans or Houston. When the hurricane came through, there was glass flying all over the place. There's been no effort to prepare us for a hurricane coming through Waikiki, or Honolulu with high-rise glass. We can go in and we harden that before it happens. Why are we going to wait until the glass is flying all over the streets? This bill is absolutely essential for the safety of the people of this State. Thank you."

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

"Thank you, Mr. Speaker. In strong support. I would like the words of the previous speaker entered into the record as if they were my own. And a

brief additional comment. While our various county civil defenses, as the speaker from Kauai talked about, do a great job, their realm is that county, that particular area.

"What this Commission is to do is to take a forest-view look at preparedness. And not only for the mapping issues as was brought up by the speaker of Kau, but there's other things, too. For instance what are we doing to address macro disasters? Disasters. Everything from a nuclear strike to a terrorist attack. Things like that. Things that have to be addressed on both the county and State level.

"And this isn't just stuff from *Discovery Channel 2012*. The City of Los Angeles just held an integrated exercise itself with all agencies, much like this Commission would do, to look at a scenario of a nuclear attack in Los Angeles.

"And the fact is, I share the concerns with the previous speaker, I don't think there's been any macro-level effort with the counties and the State to look at systematic disasters that would affect the entire State of Hawaii, as well as those disasters which may be particular to one area, but may not be such a risk in the other.

"So I think this is a good proactive measure for government and the State to be looking at because we don't want to be in a situation should that bad day come and everything fails, Mr. Speaker, to say, 'Boy we should have done that when we had the chance.' And now we're in the unenviable situation of having no plans or coordination, or anything for these kinds of macro disasters. Thank you very much."

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

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

"In strong support and can I please adopt the words of the Chair of CPC into the record as if they were my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 314, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Morikawa voting no.

At 2:02 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 382, HD 2  
H.B. No. 250  
H.B. No. 1012, HD 1  
H.B. No. 260, HD 1  
H.B. No. 383  
H.B. No. 1307, HD 1  
H.B. No. 314, HD 1

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 805) recommending that H.B. No. 1085, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1085, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 807) recommending that H.B. No. 681, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 681, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I would like to request a ruling on a potential conflict. I'm a member of the Hawaii Army National Guard," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 681, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MILITARY," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 809) recommending that H.B. No. 1107, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1107, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII NATIONAL GUARD," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 810) recommending that H.B. No. 551, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 551, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I stand in opposition to this measure. Typically electric guns are deployed in conjunction with a firearm which liquor authority investigators are currently not equipped with, although they could. But they choose not to arm their liquor authority investigators. Training for electric guns requires eight hours of training initially, and then four hours annually.

"The Honolulu Police Department, Maui Police Department, as well as other departments in our State consider the electric guns to be an intermediate level of force, which is right below deadly force, and they're only authorized for use in deadly force situations.

"Use without a firearm as a backup could make a situation much worse for our investigators. Electric gun shouldn't be used on people in a state of excited delirium, which a confrontational, intoxicated person would be in. Electric guns are nonlethal, but at the same token, they're not toys. Thank you."

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

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

"Mr. Speaker, I rise with reservations on HB 551 regarding electric guns. The purpose of this bill is to permit county liquor authority investigators to possess electric guns, establishes safety measures that must be observed by county liquor authorities and internal reporting measures and requires an annual report to the Legislature.

"County liquor inspectors are often exposed to intoxicated, hostile people who may react violently when the inspectors enforce the liquor laws. The people the inspectors are dealing with may have recently consumed large amounts of food and alcohol. Hit with an electric gun and incapacitated, they may vomit and aspirate stomach contents. This could cause death. The liquor inspectors are not trained to deal with this kind of situation. It would be better for them to call the Police and receive training on how to diffuse a potentially dangerous situation.

"Therefore my reservations express my concern that use of electric guns by liquor inspectors is inappropriate."

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

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

"Thank you, Mr. Speaker. In strong support. Thank you, Mr. Speaker. When our founding fathers adopted the Second Amendment Mr. Speaker, in 1781 to the United States Constitution, I'm sure electric guns were not even a dream. In this day and age it's more than a dream. It's a reality. And so are the dangers of our liquor inspectors. Especially those in the rural areas throughout our State. It's often been said that the Second Amendment was adopted to protect the First Amendment, Mr. Speaker.

"Mr. Speaker, all this bill does is give protection to the working men and women in the liquor departments who go out there in our rural areas unprotected and in many circumstances, in harm's way. Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, in support. Mr. Speaker, three years ago we passed a bill giving the DLNR conservation officers authorization to use electric guns in the performance of their duties. With proper training, this will help the inspectors and will help protect the public. Thank you."

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

"Thank you, Mr. Speaker. In strong support and can I please have the words of the speaker from Lihue, and the speaker from Kaneohe adopted into the record as if they were my own."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 551, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC GUNS," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Belatti, Fontaine, Jordan, Luke, McKelvey, Morita, Saiki, Takumi and Thielen voting no.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 811) recommending that H.B. No. 393, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 393, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Rhoads voting no.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 812) recommending that H.B. No. 261, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 261, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE PROCEDURES," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 813) recommending that H.B. No. 18, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 18, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'm in favor of House Bill No. 18. Thank you. The good news is that Hawaii is passing a measure pertaining to ATVs. Only 3 states have no laws covering ATV safety, so Hawaii will no longer be in the small majority with the final passage of this bill. If this bill passes Final Reading.

"However, the bad news is that this bill allows children as young as 6 years old to operate ATVs. These vehicles come in three sizes: for 6 to 10 year olds; from 10 to 16 years; and from 16 years and up. My original bill would have prohibited minors from riding ATVs.

"And while I would prefer that only adults ride ATVs, probably only those who have drivers' licenses have the requisite experience to operate vehicles. That would put them at a minimum age of 16 years. And backing up that age requirement is the prestigious American Academy of Pediatrics who recommends that persons under 16 not be allowed to control ATVs.

"As this measure advances through the Senate, there is the opportunity to raise the ATV age limit. Another bill, House Bill 1095, House Draft 2 that we voted on earlier requires that only those 12 years and up ride three-wheeled mopeds.

"So if that's a good age limit for mopeds, I think I would recommend the same for ATVs or at the minimum. It is critical that we set age limits before more children get accustomed to riding ATVs, before more small-sized ATVs are sold, and before these recreational vehicles increase in popularity and use. And it is up to us legislators to enact safety laws before more young children are killed and maimed. Thank you."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 18, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ALL-TERRAIN VEHICLES," passed Third Reading by a vote of 51 ayes.

At 2:10 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1085, HD 2  
 H.B. No. 681, HD 1  
 H.B. No. 1107, HD 1  
 H.B. No. 551, HD 2  
 H.B. No. 393, HD 2  
 H.B. No. 261, HD 1

H.B. No. 18, HD 1

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 815) recommending that H.B. No. 878, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 878, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like to request a ruling on a potential conflict. I work as the Executive Director for a nonprofit," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 878, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 818) recommending that H.B. No. 320, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 320, HD 2, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 320, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BROKER PRICE OPINIONS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 819) recommending that H.B. No. 1456, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1456, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I would like to request a ruling on a potential conflict. Can I do it on all three, Stand. Com. Rep. Nos. 819, 820 and 822? I am a partner in gas stations on Maui," and the Chair ruled, "no conflict."

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

"Mr. Speaker, with reservations on Stand. Com. Report 819. I understand the desire to streamline the enforcement process to increase the civil penalties, and I support that effort. I'm reluctant to give away the criminal penalties and I don't see that they're necessarily mutually exclusive. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1456, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 820) recommending that H.B. No. 1455, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1455, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I would like to request a ruling on a potential conflict. Can I do it on all three Stand. Com. Rep. Nos. 819, 820 and 822? I am a partner in gas stations on Maui," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1455, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PETROLEUM PRODUCTS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 822) recommending that H.B. No. 972, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 972, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I would like to request a ruling on a potential conflict. Can I do it on all three Stand. Com. Rep. Nos. 819, 820 and 822? I am a partner in gas stations on Maui," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict. Given my pending appointment to the PUC, may I be excused from this vote?"

The Chair responded, stating:

"So ordered. You are excused from this vote."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 972, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 823) recommending that H.B. No. 112, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 112, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 827) recommending that H.B. No. 496, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 496, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 496, entitled: "A BILL FOR AN ACT RELATING TO LAKE WILSON," passed Third Reading by a vote of 51 ayes.

At 2:13 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 878, HD 1  
 H.B. No. 320, HD 2  
 H.B. No. 1456, HD 1  
 H.B. No. 1455, HD 2  
 H.B. No. 972, HD 1  
 H.B. No. 112, HD 1  
 H.B. No. 496

At 2:13 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:20 o'clock p.m. with the Speaker presiding.

### ANNOUNCEMENTS

Representative Rhoads: "Can I make an announcement out of order? I just wanted everyone to know that we have a birthday girl on this day. The youngest Member of our Body is now a year older. So does that mean she's still the youngest Member? Yes, I guess it does. Congratulations."

### ORDINARY CALENDAR

### UNFINISHED BUSINESS

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 829) recommending that H.B. No. 1164, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1164, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

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

"Thank you Mr. Speaker. I rise in support to express some reservations regarding this bill. This measure requires the Department of Land and Natural Resources (DLNR) to consider the sale or exchange of its Sand Island light industrial and industrial parcels to lease holders.

"The impact on DLNR's public trust responsibilities that may result from losing the consistent revenue from the SIBA lease is an important consideration. DLNR's light industrial properties, including the Sand Island Industrial Park, generate substantial revenues which support DLNR's core State programs related to the prudent management of the State's land holdings and to the sustainability of Hawaii's "sensitive natural, cultural and recreational resources." Revenues from Sand Island make up 60% of the Special Land and Development Fund (SLDF), a critical source of funding for important DLNR programs. The SLDF in recent years has supported the efforts of DLNR to recover threatened and endangered species and to battle invasive species and to match federal funds support such programs. The SLDF has also supported operations and maintenance for the State Parks system, including funding lifeguard services at certain beach parks. The SLDF also funds the entire operation of the Office of Conservation and Coastal Lands which processes

conservation district use applications. Finally, the SLDF assists the Commission on Water Resource Management in its efforts to plan for long-term management of Hawaii's water sources.

"The Sand Island Business Association (SIBA) presently holds a master lease for the industrial lots and as the new Chair of the Board of Land and Natural Resources testified, DLNR has been open to exchanging the lands for property that generates comparable revenue. The bill requires DLNR to study the feasibility of selling or exchanging the industrial park and factors impacting such a decision. While the present lessees of SIBA (and their predecessors) should be commended for financing the improvements at the industrial park, we should not lose sight that they did receive the benefit of their bargain with the taxpayers of the State by having less than fair market value rents and as they pay the debt service for the improvements, a fixed rental period.

"While the status of Sand Island as part of the Ceded Lands Trust remains disputed, I also would caution against transferring these lands prior to completing the reconciliation process with native Hawaiians. Any study of the factors affecting whether DLNR should agree to a sale or exchange of the industrial park should consider whether these lands should be on the table to be included in any land transfer with the Office of Hawaiian Affairs.

"I am voting in favor with the reservations discussed above."

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1164, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives C. Lee, M. Lee, Luke, Morita and Takumi voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 830) recommending that H.B. No. 376, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 376, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 376, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Belatti,

Brower, Keith-Agaran, C. Lee, Luke, Morita, Nishimoto, Rhoads, Riviere, Takumi and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 831) recommending that H.B. No. 1180, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1180, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 832) recommending that H.B. No. 1617, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1617, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1617, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 837) recommending that H.B. No. 1566, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1566, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1566, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Brower voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 838) recommending that H.B. No. 568, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 568, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. I disagree with the right of first refusal. That will really diminish the value of the money that will come to this State for the lease rent."

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

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

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

"Mr. Speaker, with reservations and I agree with the Representative from Kailua."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 568, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AQUACULTURE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 843) recommending that H.B. No. 1083, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1083, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPOUNDED VESSELS," passed Third Reading by a vote of 51 ayes.

At 2:25 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1164, HD 1  
H.B. No. 376, HD 1  
H.B. No. 1180, HD 1  
H.B. No. 1617, HD 2  
H.B. No. 1566, HD 1  
H.B. No. 568, HD 2  
H.B. No. 1083, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 844) recommending that H.B. No. 1505, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1505, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE FACILITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 845) recommending that H.B. No. 331, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 331, HD 2, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 331, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 851) recommending that H.B. No. 549, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 853) recommending that H.B. No. 545, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 545, HD 1, pass Third Reading, seconded by Representative Evans.



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

Representative Ching's written remarks are as follows:

"I rise in support with strong reservations to H.B. 545, which would allow and provide for online voter registration. While the intent of the bill is certainly noble, the possibility of error or fraud is high. I certainly feel that this needs to be addressed further. Additionally, the low rate of voter participation is a symptom of something more than convenience. We need to support election measures that reinforce the relevance of civic participation in our communities."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 545, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTER REGISTRATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 855) recommending that H.B. No. 638, HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 638, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support. I just wanted to note that this is one of those measures that seeks to streamline the elections process. It's difficult often when you have minority votes. You don't end up finding out who's actually losing, or who's actually winning. If we do pass this, there's an opportunity for further review of course, as it goes to the Senate. But I did want to note that it will allow us to far more quickly find out who it is that's actually winning. 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. 638, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 856) recommending that H.B. No. 1004, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1004, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1004, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 480, HAWAII REVISED STATUTES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 857) recommending that H.B. No. 246, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 246, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF THE PROSECUTING ATTORNEY OF THE CITY AND COUNTY OF HONOLULU," passed Third Reading by a vote of 51 ayes.

At 2:27 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1505, HD 2  
H.B. No. 331, HD 2  
H.B. No. 549, HD 1  
H.B. No. 545, HD 1  
H.B. No. 638, HD 1  
H.B. No. 1004, HD 1  
H.B. No. 246, HD 1

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 859) recommending that H.B. No. 828, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 828, HD 2, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 828, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 860) recommending that H.B. No. 1640, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1640, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I rise in strong support of this measure. This will allow counties to issue ID cards at locations where driver's licenses are issued. On Neighbor Islands you have to visit the Governor's Liaison Office to get a State ID, and the hours and the days that the office is open makes it even more difficult to get one.

"I had to personally pull my daughter out of school a few years ago so that she could get her State ID which was necessary for travel. And there's no reason that getting an ID should require taking steps like that.

"This bill would make it much easier for people to get an identification card, particularly students and residents living in rural areas who either have to cut class or drive longer distances, and then stand in line for an unnecessarily long time. 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. 1640, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATES OF IDENTIFICATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 862) recommending that H.B. No. 848, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 848, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 864) recommending that H.B. No. 1300, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1300, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 865) recommending that H.B. No. 782, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 782, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, I'm in opposition to this measure and I'd like to say a few words. Mr. Speaker this bill would establish a pocket of money, a special fund to fund the operations of the department.

"And in order to do that DBEDT, the PUC, the Department of Labor and the Department of Taxation will assess a \$20 surcharge on fees for business and commerce related services and then deposit the revenue into a special fund in DBEDT. So these departments essentially become the tax collector for DBEDT's new special fund.

"This bill is bad for the following reasons. The surcharge raises the cost of living in Hawaii and the cost of doing business. The money goes directly into a special fund and not into the general fund. A nexus does not exist from the surcharge collected from various departments and the programs to DBEDT.

"The \$20 surcharge is arbitrary and capricious. It is simply a money grab to run DBEDT. As far as the general fund expenditure limit, it appears that these monies evade the general fund limit because they don't go into the general fund first where they are counted as general fund revenues upon which the limit is calculated. Too many special funds have rendered the general fund spending limit almost meaningless.

"We've been told that too many special funds remove flexibility and decision-making power from us, the legislators. Good government principles would require that taxes and fees be placed first in the general fund so that we can appropriate the amount needed to operate certain programs.

"Why charge taxpayers who want services from the Department of Taxation or the Department of Labor for DBEDT to pay for DBEDT programs? Will the charges go into DBEDT's Energy Division or the Business Division or the Film Division? Where is the nexus and where is the connection?

"What relationship does a public utility have with DBEDT? And why would they be able to collect a fee for services they don't even provide? What nexus does DBEDT have with a hoisting machine operator? Or a pyrotechnics operator? A safety and health professional? Boiler installer or an elevator mechanic? None that I can see. Yet they want to attach a surcharge for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization.

"Section 37-52.3 of the Hawaii Revised Statutes requires that special or revolving funds must reflect a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program; provide an appropriate means of financing for the program or activity and demonstrate the capacity to be financially self-sustaining. This bill doesn't meet any of these codified requirements.

"I am not surprised that the Department of Commerce and Consumer Affairs and the Department of Labor and Industrial Relations are opposed to this bill. And of course it doesn't surprise me that DBEDT and DBEDT's testimony to the Committee on Finance was the only testimony in favor of this ill-conceived measure. Thank you."

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

"Mr. Speaker, in strong support. In these hard economic times the DBEDT A-fund budget is about \$5 million, and this \$20 surcharge would fund DBEDT for only a short period of time. In fact this \$20 surcharge would end on June 30th, 2015.

"Now I realize there's no difference between fees and taxes, but the score keeping function of DBEDT is very, very important to business. When you talk about score keeping, those are the first functions that are probably going to go on the cutting room floor in hard economic times. If it just takes \$20 for a short period of time to serve its business, I think this is a really great idea. Thank you, Mr. Speaker."

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

Representative Johanson's written remarks are as follows:

"I rise in opposition to this measure. I firmly believe that Hawaii's economy is predicated on the success and health of our small business sector. A surcharge like this, that has the potential to be levied multiple times on small businesses, would only increase the cost of doing business in Hawaii. Our small businesses are struggling to stay afloat and all of these additional fees that government imposes make the prospect of thriving, let alone surviving, a very daunting one.

"Despite the good intentions of this bill, I think the fees it imposes in the name of funding the Department of Business, Economic Development, and Tourism are completely counterproductive to encouraging and supporting small business in Hawaii."

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? Given my pending appointment to the PUC, may I be excused from this vote?"

The Chair responded, stating:

"This affects the Department of Business, Economic Development and Tourism."

At 2:33 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:34 o'clock p.m.

The Chair then stated:

"At this point the Representative from the North Shore of Kauai has asked that she be excused from this particular vote pending her confirmation tomorrow. The Chair recognizes that, and you'll be excused for this particular measure."

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

"Thank you, Mr. Speaker. In support. I would like the words of my Vice Chair entered into the record as if they were my own. And also just to touch upon his comments, DBEDT is the only agency in government, to take the words of my colleague from Upcountry, Maui, that can play offense. Every other agency is a regulatory agency. DBEDT is the only one that can be proactive. And if we want to fund the Small Business Regulatory Review Board, if we want to fund the PUC, especially if you want them to address all these multiple dockets like wheeling and other things, then we need to find a revenue stream for them.

"One of the reasons why your Committee on Economic Revitalization moved this bill is because the Vice Chair is absolutely correct. In these tough budgetary times, it's DBEDT that's probably going to get the axe first and foremost. And how can we have the Small Business Regulatory

Review Board, especially given another piece of legislation that's moving, work with agencies to remove redundant rules, rules that have been adopted for statutes that are no longer in existence, if we don't fund them to do their operations.

"So this is outside of the box, but I think it's worth exploring and hopefully the conversation can continue in the Senate because again, if we can't find ways to fund DBEDT and the functions, it's going to be the business community and others who are depending upon their services that suffer. So I welcome any new ideas to this to make sure that they don't take the axe and we can't play offense. Now for our economy, it's worth exploring. 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. 782, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no, and with Representative Morita being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 867) recommending that H.B. No. 983, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 983, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STRATEGIC DEVELOPMENT CORPORATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Pine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 868) recommending that H.B. No. 985, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 985, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fontaine and Pine voting no.

At 2:37 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 828, HD 2  
H.B. No. 1640, HD 2  
H.B. No. 848, HD 2  
H.B. No. 1300, HD 2  
H.B. No. 782, HD 2  
H.B. No. 983, HD 2  
H.B. No. 985, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 870) recommending that H.B. No. 1183, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1183, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1183, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Brower, Fontaine, Hanohano, Nishimoto, Thielen and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 871) recommending that H.B. No. 678, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 678, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Reservations with a comment, please. My comment regarding my reservations would be the fiscal impact on the general fund due to this measure. I believe that there are other measures that we can take to protect personal information. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 678, HD 3, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Fontaine voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 873) recommending that H.B. No. 1483, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1483, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Carroll's written remarks are as follows:

"I am in strong support of 1483 HD1 as it will help alleviate imminent threats of agriculture shutdown on the Island of Moloka'i by reducing current water rates and forgiving outstanding debt.

"The Moloka'i Irrigation System directs the Department of Agriculture to provide water to the MIS users who lease tracts under Section 207 of the Hawaiian Homes Commission Act. The MIS is also part of the State's Irrigation System Revolving Fund that is meant to be self-sufficient with affordable water rates to encourage and sustain agricultural development. Due to the economic downturn and other unforeseen events, an outstanding balance of \$350,000 is owed on the MIS by the system's homesteaders. This debt currently extends well beyond the means of the homesteaders' ability to pay back. Being unable to pay, these homesteaders are being faced with a possible shutdown of their agricultural businesses.

"In order to ensure the survival of Molokai's agriculture, HB 1486 HD1 provides a one-time forgiveness clause to eliminate debt incurred prior the effective date of this measure. HB 1486 HD1 also reduces the current water rate to help alleviate existing expenditures and hopefully encourage new agricultural development."

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

"In support with a comment. Thank you. I support this measure, Mr. Speaker, because the State has an obligation, a trust obligation, to provide

for projects pursuant to subsection D of the Hawaiian Homes Commission Act that sufficiently provides water for irrigation, aquaculture, and activities on tracks of leased land to Native Hawaiians pursuant to section 207A. Thank you, very much."

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

"Thank you, Mr. Speaker. In strong support. I would just like the words of the Representative from East Maui entered into the record as if they were my own."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1483, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOLOKAI IRRIGATION SYSTEM," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Choy voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 875) recommending that H.B. No. 1054, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1054, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 876) recommending that H.B. No. 4, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 4, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I would like a ruling on a potential conflict. I sit as an ex-officio member of the National Interstate Compact, and also a member of the State," and the Chair ruled, "no conflict."

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

"Thank you, very much. I would like to submit written comments in support. And also I'd like to mention a letter written to the Secretary of Defense regarding this issue. Thank you."

Representative Takai's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this measure. Interstate compacts are a time-tested and court-tested means of resolving interstate problems authorized under Article I, Section 10, Clause 3 of the U.S. Constitution.

"In our country's 220 year history some 200 compacts have been adopted of which Hawaii is a member of approximately 15 interstate compacts including three compacts pertaining to education.

"Interstate compacts are used for three primary purposes: boundary disputes between states, management of environmental resources, and regulatory compacts which apply to a wide variety of multi-state problems including transportation, insurance regulation, taxation, and criminal justice.

"Compacts allow the states to exercise collective control over matters which are traditionally regulated by the states without surrendering state control to the federal government.

"Interstate compacts allow the states to avoid the problem of 50 different sets of rules' with which to solve interstate problems through a uniform approach while still subject to joint state authority.

"In order to provide the desired uniformity to facilitate the transfer of students in military families from one state to another, a compact mechanism was employed which became effective upon the enactment of the compact by ten states in 2008 and since that time, 24 additional states have joined the compact, including Hawaii, for a total of 35 states.

"Since January of this year, the compact legislation has also been introduced in North Dakota, Montana, and West Virginia and Wyoming, with proposed legislation pending in New York and Pennsylvania and a number of the other non-member jurisdictions expected to introduce the legislation this year.

"On average, most military children will move at least twice. Most will attend six to nine different school systems between kindergarten and 12th grade.

"These frequent moves result in some educational obstacles. Though many states, including Hawaii, have made progress in addressing these educational concerns, there is a lack of consistency between states that continues to create difficulties for our military families.

"Some of these recurring issues include kindergarten start age, participation in extracurricular activities, immunizations, timely transfer of records, placement in appropriate courses, missed or redundant entrance and exit testing support for children of deployed service members, and on-time graduation.

"Though one state may do several things right, the next move to another state can create a new set of problems since the procedures are not the same.

"This Compact seeks to facilitate equal educational opportunity for the children of military members in four major areas: enrollment, eligibility, placement, and graduation.

"The overall goal is to establish a 'common denominator' among the member states which will remove existing barriers to timely completion of the public education process for these students who by virtue of the decision and commitment of their parent to serve our country are, in many cases, being unfairly penalized.

"The Interstate Compact does not ask for special privileges for military children; only that states create a level playing field, and work cooperatively to make it happen. 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. 4, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 877) recommending that H.B. No. 159, as amended in HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 159, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 878) recommending that H.B. No. 198, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 198, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 51 ayes.

At 2:42 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1183, HD 2  
 H.B. No. 678, HD 3  
 H.B. No. 1483, HD 1  
 H.B. No. 1054, HD 1  
 H.B. No. 4, HD 2  
 H.B. No. 159, HD 1  
 H.B. No. 198, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 881) recommending that H.B. No. 952, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 952, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to the public schools land trust. Mr. Speaker, we have 257 school campuses, all elementary and high school. This bill proposes that we pool them and use and develop their land and make money for the DOE.

"I think the issue and the concern about many of us is that some of our districts, some of our complexes have been subject to closure because of funding. This seems to be maybe a clever way of doing it, but I would submit this is probably a school closure or at least an incentive for school closures because in effect, as it says in one section, that the measure will identify underused public school lands and public schools.

"So with that I fear that the way all of our districts are being tormented now, this is going to be an incentive to do so. Heretofore I thought the mandate of the DOE was education, not land development. We've already got a HCDA, the Hawaii Community Development Authority. We've already got other ways of doing development and if you look at the cash flow of the Aloha Tower Development Corporation, do you think we could do very good doing land development of school properties? I don't think so. The track record is suggesting that we stick to our knitting, and DOE sticks to education and not getting into the land development business.

"And I close this with a quote from the Honolulu City Council which was unanimously passed urging the Legislature to kill this bill. Mr. Speaker, the City and County rarely weighs in as emphatically as they've done. They went out of their way to do a resolution and they're saying to us, stay away from this. It's not something that we should be doing. And, Mr. Speaker, later on when it puts us in jeopardy with the City Council and all the others who know what business is like, I think we should back off and that's why I'm speaking on this bill. Thank you."

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

Representative Keith-Agaran rose in support of the measure with reservations and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I rise to express reservations regarding H.B. No. 952, HD1 which proposes to carve out a new Public School Lands Trust from the State's Public Lands corpus and creates a new commission to duplicate authority already granted to the Board of Land and Natural Resources and other governmental authorities over these lands. The measure suggests that creating this new redevelopment structure and landholding scheme will maximize the use of public school lands and generate income to improve public school facilities. This bill also establishes the Public School Lands Trust Permanent Fund along with the School Facilities Special Fund.

"No one denies that repair and maintenance of the physical infrastructure of our public school system can use additional resources, or that education is a prime core function that should be supported by public funds. However, creating a separate land trust and a new commission to manage that land trust raises some difficult issues. It's useful to remember that as a condition of being admitted to the Union as the Fiftieth State, the U.S. Congress required:

(f) The lands granted to the State of Hawaii . . . , together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. The schools and other educational institutions supported, in whole or in part out of such public trust shall forever remain under the exclusive control of said State; and no part of the proceeds or income from the lands granted under this Act shall be used for the support of any sectarian or denominational school, college, or university.

Admissions Act, §5(f).

"It's also useful to recognize that historically Hawaii's decision makers have used its public lands and rents from those trust lands disproportionately in support of public education as opposed to other purposes identified for these trust lands (i.e., the most glaring being "the betterment of the condition of native Hawaiians"). Further, due to the historical development of our State, the counties nominally continue to hold title to the formerly private lands under the older schools although active management of those lands has been borne generally by the State since Statehood.

"It is entirely within the Legislature's authority, if it chooses to do so, to reserve the lands with the best potential to yield income and to apply those proceeds to support our public school system. However, while this may be a good idea, we should account for the historical imbalance in the use of Hawaii's public lands. Until reconciliation is achieved, it seems premature to discuss carving out what may be the most valuable and easily developable lands from the discussion over how we achieve a just resolution with our native people.

"So although I share a strong and abiding commitment to provide the best education possible for our *keiki*, I must support HB No. 952 HD1, with these reservations."

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

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

"A no vote with comments, please. Thank you. I feel this bill is premature. Before any consideration of a public school land trust, the State must first resolve claims and obligations to Native Hawaiians. Restricting the use of revenues generated on public trust lands solely for the use of public schools would violate any State obligations. Thank you."

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

"Thank you, Mr. Speaker. I am voting on this bill with reservations. I had thought that perhaps the Board of Education and the Department of Education advanced this bill in an effort to maybe make use of Liliuokalani School because it is so well situated in a commercial area on Waiialae Avenue in Kaimuki. But the Deputy Superintendent assured me

this was not a DOE bill. It was from the HIPA, which is a think tank, a private think tank. And I believe him, that it was not intended to close certain schools and make use of their real estate.

"But there may be something to looking at the schools to see whether there might be some potential development areas. I think the schools where they're taking the property may benefit in some way, like Star of the Sea School in my district. Of course it's a private parochial school. When they developed a retirement home nearby, the retirement home was able to purchase a new gymnasium and a new early learning center for the Star of the Sea School. So maybe something of that type can be worked out in the future.

"I think that we have to go very slowly on this. You have to consider the public lands issue and also the various counties because in many places this is a land grab and it would take the property and parks away from the counties. So I think that we should step back this year. Take a long, slow look at this, a good study of the issues and see what we learn. So I'm not voting no, but I will vote with reservations. Thank you."

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

"Thank you, Mr. Speaker, in support with reservations. I do think the bill has merit and is certainly worthy of further discussion. But I do think the Representative from Waianae brings up a good point and for that reason, with reservations. Thank you."

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

"I rise with reservations. I would also ask that the comments made by the Representative from Kaimuki be entered as my own. But I would be disappointed if this did lead to school closures. Thank you."

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

"Thank you very much, Mr. Speaker. Let me respond in support. And this is the bill that's the proverbial 'work in progress' so we should always keep that in mind.

"Let me just make a couple of points, Mr. Speaker. The whole concept behind the trust idea and whether or not we go with the trust idea, the whole goal is to say, we take a school and see whether or not we can generate revenue out of that school.

"As you well know, Mr. Speaker, Wailupe Elementary School closed. Anybody who drives past that school today knows what it's being used for. Absolutely nothing. It's sitting there because it's owned by the City and County of Honolulu and there's nothing. And unfortunately unless the City continues to maintain that property, typically it will be vandalized. It'll just be run down and so on.

"And the fundamental reason for that happening is because there was no process in place as this bill intends to do, to make use of that property.

"Secondly, Mr. Speaker, this is not about school closures. Those are two separate issues. Envision this. Take Puuhale Elementary School. It's been a source of controversy as to whether or not it should be closed. Puuhale sits on seven acres of land. What if you were take that school, go to a developer, and by the way discussions are ongoing for this effort. Go to a developer and say, 'Tell you what you do. If you are willing to build a new school on that site using two acres, a state-of-the-art school, white boards, laptops, the whole nine yards. But you also get to build 100 units of affordable apartments for that community.'

"So perhaps teachers could live in those apartments, or people who work in that community could live in those apartments. We're not talking about public housing by the way, Mr. Speaker. We're talking about very nice apartment units. And the deal with the developer is we'll give you a 55 year lease, at \$1. So the land, essentially you have a commitment to have that for 55 years and that developer will then be responsible, Mr. Speaker, for the building and maintenance and running of that facility and we would

indemnify the State. The State would not have a liability in case something should happen on that property.

"I dare say, if you go to that community where Puuhale sits and you tell those parents and teachers that we will build you a state-of-the-art school, your kids can continue to come here, and we'll have apartment units there so we'll have an adult presence on that campus 24/7, and it would be at no cost to the State. And for the City Council and for the Mayor, the discussions are ongoing with them as well. The developer has to pay property taxes because they're residential units on that site. How much revenue does the City and County generate today on school campuses? Okay, I know the answer. Zero. Nothing.

"So let's keep this in mind. It's a work in progress. To simply say no at the beginning I think is way premature. And just as a matter of correction, there are 286 in this State. Thank you, Mr. Speaker."

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

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

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

"In support, Mr. Speaker. And I never thought I would ever do this, but I'd like to use the words of the speaker from Pearl City as my own."

Representative Ward rose to respond, stating:

"Yes, Mr. Speaker. Just a brief rebuttal. And because I represent my district I'm going to speak exactly for my district. To have what they have at Iolani where next to their school where they build apartments to fund it. Where they have next to Star of the Sea to fund it. That would not fit in my district on the three elementary schools that I have. It just doesn't fit. To see 100 feet, or 50 feet of high rise buildings next to a school because we didn't budget ourselves. Which already the budget is at \$2 billion because we don't know how to prioritize education. We've got to go out and become developers.

"We know how good the government is at running businesses. To put the DOE or the DLNR into the business of building high rises to fund our educational system, I think I may even vote for the gambling bill before I would vote for this one. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 952, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL LANDS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Jordan and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 882) recommending that H.B. No. 953, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 953, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker, I rise in opposition. Just a real brief comment. This is not a time to be talking about salary increases for the superintendents, not with these economic times. So I think this is a discussion we should be having later on, further down in a number of years when we get better. Thank you."

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

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

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

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

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

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

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

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

"Thank you, Mr. Speaker. In support with reservations. I do think one of the underlying things for us all to consider is that the timing of this is obviously not ideal and I think we all recognize that.

"But I do think that if we contextualize it in the broader discussion of education reform that this Body has actually enacted in the many years before I was here. I think it is part of the broader discussion from a human capital perspective after the enactment of Act 51, the governance change that we made with the appointed school board. A lot of these pieces of the puzzle for a better education system are things that are up for consideration by this Body. I think this particular measure from a human capital perspective is asking us to take a look at how do we attract, recruit, and retain the best qualified people. And particularly because of the reforms enacted under Act 51, many of these individuals are given very significant responsibilities for the education of our children. For those reasons, although I agree with everyone's point about the timing, I do think it is important for us to continue considering this measure. Thank you."

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

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

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

"Thank you very much, Mr. Speaker. In support, but just a couple points of edification on this bill. And I realize the concerns expressed by some Members saying this is not the time. Please keep in mind that as you well know, Mr. Speaker, the Superintendent's salary is set in statute by law and currently it's \$150,000. It's been \$150,000 for ten years. I dare say many people in the community over the past ten years have gotten raises, including all 51 Members sitting on the Floor today.

"And by the way, Mr. Speaker, the dilemma is that if the Superintendent gets \$150,000, and again it's in statute, it's a percentage, that the complex area superintendents get 80% of that, and the assistant and the deputies can get up to 90% of the Superintendent's salary. And again that hasn't changed for the past 10 years.

"So because of collective bargaining, because in those ten years frankly principals have gotten raises, as well they should have. And as a result currently six principals in our system make more than the Superintendent, and well over a 100 principals make more than the complex area superintendents. So the very people that they are being supervised by get paid less than they do.

"What does that do ultimately? It really leads to a dilemma of who do you recruit to be complex area superintendents. And if you look, there are 15 of them as you know. The majority of them now are coming from the elementary schools because frankly very, very few high school principals

are going to take a \$30,000 or \$40,000 pay cut to take on much more responsibilities as a complex area superintendent.

"So there are many interim complex area superintendents, acting complex area superintendents because what the situation now is the Superintendent asks them to take the job. They do it, but they don't want to be permanent. So they do it for a few months and then they go back. That is not a healthy situation if you want to move that system forward. So I can understand again the concerns about the economy and so on, but over the years we've tried to introduce bills to increase the Superintendent's salary, and those have failed as well. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Now that I'm educated about how much principals and superintendents make, I understand now why the education budget is in the billions. I'm changing my vote of reservation to no. Thank you."

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

"Thank you, Mr. Speaker. In strong support with a few comments. I believe if we want to deliver on the promise of Race to the Top, if we want to deliver on the promises of Act 51, if we want to deliver a quality system for all of our Hawaii's children, it's these kinds of measures we must pass. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. I know it's an old analogy, but it does seem to me that the individuals whose salaries would be covered under this bill have as much right to try to get a market wage as, say the football coach. And I think if we're going to be capping these people out at what's a relatively minor amount of money compared to other positions in this State. Don't get me wrong. Coach McMackin, I think you're doing a great job, but it's hard to see how this is consistent with where our priorities are in athletics. Mahalo."

Representative Yamane rose to respond, stating:

"Thank you, Mr. Speaker. I'm still in opposition. I just wanted to clarify that I know it's been referenced that this bill is an indication that if you are supporting Race to the Top or improving our schools, then you vote aye, versus a no. The reason why I wanted to clarify my no vote, Mr. Speaker, is that regardless of the situation that we're facing, we're still in a fiscal crisis, Mr. Speaker. These positions of, we're talking about \$120,000 annual salary versus looking at giving them an open blank check to increase that up to maybe \$150,000.

"Mr. Speaker, I'm not saying that these individuals don't earn it. I'm very confident that those in Central Oahu deserve it very much. However Mr. Speaker, my question is that with a new Board being appointed as we move forward, as we look at ways of cost cutting measures that are affecting all areas and segments of our community, that we look at salaries as an issue. And from \$120,000 to \$150,000, even for one individual is quite a hefty increase. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition as well. I would like the words of the previous speaker entered into the Journal as if they were my own. And just a brief comment here. My philosophy coming in to this has always been the same. We need to protect the 'worker bees' and look to the top level of management if we're going to make cuts. And think about how many teachers that would allow us to retain and hire for our schools, \$150,000.

"That's not to say, like the Representative from Mililani said, that they're not doing a good job. But in this deficit situation, I think our priorities, at least for me and my constituents, need to be clear. Mine are about supporting the teachers and those at the school level and give them the

resources they need to attract and retain good teachers and staff so that we can have fully functioning schools. If that means we have to hold back on the discussion of salaries for upper level management, then so be it. But I think that's where the priority needs to be. 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. 953, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Cabanilla, Ching, Fontaine, Marumoto, McKelvey, Pine, Thielen and Yamane voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 883) recommending that H.B. No. 566, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 566, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with some consternation that is negative about this bill. In opposition. The mantra in my office is, 'a solar on every roof.' Every roof in the State of Hawaii. I think there are two hundred and some thousand homes. But the data says we've only got 25% maybe 30%. Some bills push us forward, and unfortunately this bill I think is going to push us backwards because it's trying to dis-incentivize the solar industry. It's trying to take away what otherwise is our strength. We have sun in most places, some 90% of the time.

"This is a place where we need to have the political will to get rid of that \$7 billion of imported fossil fuel. If we're serious, if we've got the political will, we wouldn't just dis-incentivize this industry. We would do like Israel that's spending \$60 million a year to make sure that those people are dependent upon themselves rather than outside forces.

"This bill I think caps all of the solar credits at \$7 million. Itsy bitsy \$7 million. We've got sunshine for all of our quarter million houses and we're not taking advantage of it. The difficulty I have with it is that we've spoken from the Floor. We've written, we've said we're going to be energy independent. We're going to do this. We're going to do that, Mr. Speaker. We've given it rhetoric. And then when the rubber meets the road, we take a bill like this, we take away the incentives for the guys who are out there doing a yeoman's job. This is going to take away from those jobs. And my fear is the vision that we had or that we say we have, we don't have because this bill is so myopic in its short view of what we are as a people and what we have as a future. That we've got to go beyond that.

"So I hope this is a beginning discussion point for this. I mean we don't have to become like Israel, but let's get the political will of those other countries that don't even have sunshine, who are doing much better than we are, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. I'm opposed to the bill because of the delay of the tax credits and that hurts the program. Thank you."

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

"Thank you. Reservations for the same reason."

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

"Mr. Speaker, in strong support. In deference to my good friend from Hawaii Kai, this particular credit has been around for 40 years. And if we're trying to give incentives to some industry, it should be for a short time. If we're trying to achieve a goal, we should have a time frame that's realistic. It's been 40 years to achieve something. Maybe we have to realize that this particular credit is not working and we have to try something else.

"Another point is that this particular credit is going to sunset I believe, in five years. So maybe the five-year time frame is going to put some urgency into getting renewable energy and to take advantage of this particular credit. So I stand in strong support of this particular measure. Thank you."

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

"Thank you, Mr. Speaker. In strong support. This bill does not cap the Renewable Energy Systems Tax Credits. We have a sunset date in 2016. There will be a study prior to that date to see if there's any reason to continue this program, otherwise we're just looking at ending a tax credit way out in the future. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Mr. Speaker, just a brief retort to the erudite individual from Manoa. He's right. It's 25 years and we've only got 25% penetration. How good is a program like that? Well if you have niggardly incentives, if you have small incentives, it's saying that we can't do it because we haven't incentivized the industry, and that's probably why people have not done it. Because number one, solar costs money. You've got to give incentives for the tax breaks, and that's probably why we've got 25% penetration and not more.

"And quite frankly, if we're not going to have the method of leadership from this Body, it's not going to be economical from the consumers' point of view. Right now, I know you can lease. Someone will say, 'Well look. They don't have to pay money up front. They can lease it.' But by the time you pay it off in 20 or 30 years, you've only saved about 15% on your electrical bill, and I think people want to save much more than that. For those reasons, Mr. Speaker, I hope this dialogue continues."

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

"Yes, thank you, Mr. Speaker. I speak with reservations even though I do support energy conservation. To give you a little history, I used to be one of the first in the State to put up solar in low income housing in Maui, Molokai and Lanai. We helped to build the solar. In fact we built our own then. And ultimately we got a little more sophisticated. But the ones that we built and the more sophisticated ones are basically the same. They provide the same hot water and the price doesn't matter. My understanding with the solar is they go as high as \$12,000 now. I used to sell some for \$300. And so with the more tax credits you give, the benefit doesn't really come to the buyer. The benefit comes to the seller.

"Another thing you must keep in mind is that ironically with the solar and with a lot of the alternate energy products, as the electric company begins to lose kilowatt revenue because of the conservation methods that you have out there, they'll have to ask our friend from Hanalei, Kauai and the PUC for an increase in the rate because electric companies can't get a return between 12 and 14%. And if it falls below that and it is falling below that because of all the energy conservation ironically, then they're going to be asking for a raise in the rate. And the net return for the user is probably not going to be that great.

"So with this basis, I speak with some reservations on the need for the continuance, and to be careful as we move along. The net gain can be not that great as we move on. 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. 566, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fontaine, Pine and Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 884) recommending that H.B. No. 1176, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1176, HD 3, pass Third Reading, seconded by Representative Evans.



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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to vote no on the undersea cable bill and I'd like to make a few comments. Thank you. House Bill 1176 proposes a regulatory scheme that really allocates the risk to the ratepayer. For the first time in Hawaiian Electric Industry's history, this legislation would shift HECO's share of responsibility to the ratepayer in the form of higher costs, adjusted rates and surcharges, no matter what the status of the interisland cable project. Not only would the risk of the project be put upon the ratepayer should the interisland cable be unprofitable, but House Bill 1176 also shifts the burden of doing business to the ratepayer even if the interisland cable is not completed.

"House Bill 1176 shields HECO and its shareholders from all possible negative outcomes, but on the flipside, profits will not be shared with the ratepayer. So the ratepayer pays, but the ratepayer does not get any share of the profits. The monies will continue to be the property of the shareholders exclusively.

"Proponents of the bill argue that by eliminating all risks to the utility, the ratepayer will benefit from lower rate should the cable be installed. However, this legislation does not establish any protection for the consumer that would guarantee that the ratepayer would actually benefit from lower rates. Proponents also argue that the Public Utilities Commission provides oversight, but House Bill 1176 does not guarantee the Public Utilities Commission's neutrality.

"The second reason I oppose the bill is that House Bill 1176 is premature. The environmental impact analysis for interisland cable is still in the preliminary stages. Thus even if it's eventually established that the cable is environmentally sound and that ratepayers must take all of the risks, it does not follow that the rate payer will be asked to take on the risk of the project before the cost of the project is determined. At this point the Legislature should not agree to saddle the rate payer for all of the cost of a project when it's not even clear what the extent of these costs are.

"Another reason is that House Bill 1176 establishes a presumption that the construction of the interisland cable is a foregone conclusion. By seeking to establish a regulatory structure for the interisland cable well before the preliminary analysis are completed, a presumption is created that the interisland cable is a foregone conclusion. This bill in many ways validates the criticism coming from Molokai and Lanai beneficiaries that the approval on development of these projects are completed without a good faith consideration of all pertinent data.

"There have been attempts to obtain financial information on the interisland cable, but they have been thwarted. There is a study that has been done by the National Renewable Energy Lab and Booz-Allen. The NREL study is virtually completely redacted so I show you, Mr. Speaker, a page from that study, and all you see are blanked out spots over the information. So we don't have the real information showing what the risk to the ratepayer will be and the ratepayers certainly should have access to this information.

"The other thing is, Mr. Speaker, as I stand here and I look at this piece of legislation, I keep thinking, Superferry. Special legislation for one project. Superferry. Now we know how that went. We came back in Special Session to do it again and then it was struck down by the court. This smells the same. Looks the same. I think virtually it is the same and that we have a Superferry bill sailing through in a premature fashion and I would ask the Members to look at this more thoroughly."

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

Representative Souki rose and stated:

"Mr. Speaker, the boat hasn't sailed yet."

The Chair addressed Representative Souki, stating:

"Representative Souki. You're out of order. Representative Souki, please sit down. Representative Thielen, you may proceed."

Representative Thielen continued, stating:

"You know it's a good thing I can't hear him, Mr. Speaker. Thank you. I would ask the Members, Mr. Speaker, to take a stronger look at this and think of this. We don't have the information upon which to formulate an educated act to decide whether or not legislation like this should go through. It's very premature. It certainly smells like special legislation.

"And I for one would like to see an NREL report that shows the economic analysis and the power output analysis. And I would like to see it where the data is actually shown to us as decision makers. I would hope that we would be able to get this before this bill moves any further on the Senate."

Representative Souki rose and stated:

"Mr. Speaker, a point of information. Do we have a time limit on speaking on this?"

The Chair then stated:

"Representative Souki, Representative Pine has yielded her time and that's why I've allowed Representative Thielen to continue."

Representative Souki: "All right. Please proceed."

Speaker Say: "Don't worry you two seniors. Representative Thielen, please continue."

Representative Thielen continued, stating:

"As the Chair of Transportation says, 'Please proceed.' We did that with Superferry and we were shot down. So we have the very same kind of special legislation here and I would ask that the Chair of Transportation take a look at this and say doesn't this ring bells in his head. Doesn't it sound like the same thing?"

"And Mr. Speaker, I personally will be asking NREL for a copy with the data in it. I will probably be refused. DBEDT has it. I would think that we as a Body should get that information so we can really consider this and decide whether or not this bill should even move forward. Thank you."

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

"Thank you, Mr. Speaker. I think this is the final time that I will ask for a ruling on a potential conflict. Again, given my pending appointment to the PUC, may I be excused from this vote? Thank you"

The Chair responded, stating:

"So ordered. You are excused."

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

"Thank you, Mr. Speaker. I rise in support. Thank you. I appreciate the comments from the previous speaker, but I just respectfully disagree with the analogy that it's like the Superferry. With the Superferry, there were a lot of regulations in place. People could argue they didn't follow them. People went to court to make that argument.

"But with this bill, what it does is it sets up a regulatory structure under which the interisland undersea transmission cables could be developed, financed, and constructed on commercially reasonable terms. So this bill is just a framework. Now the discussion on who comes and works in that framework, if we like it or don't like it, that's out in the future. This just sets a framework. I think that's a reasonable thing to discuss and to move forward.

"We're trying to get renewable energy. We're trying to look at alternatives. I think this Body is very committed to try to work on finding answers other than fossil fuels. So I think this is a good bill to move forward. People can judge if they want it in the future or not. Thank you."

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

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

"Thank you, Mr. Speaker. Just to follow up on a couple of statements that were made. In support. Thank you, Mr. Speaker. This is not special interest legislation. This is simply giving regulatory structure to the PUC. I expect if and when they ever get to a cable project, there'll be at least a half dozen companies bidding on the RFP that will be required for this. That can't be special legislation.

"Included in the bill are provisions for the PUC. The way it's worded, the cable company, if we get to that point in this project which is many years down the road, will have to have some kind of 'skin in the game' so to speak. The cable company, if they join in this partnership with the electric utility and any wind provider, any other renewable energy provider, will never collect a penny until production of electrical current goes down that cable. So they themselves have to be very well assured that all the players are committed and financially capable of moving forward with the project. So there is absolutely minimal risk to the ratepayers in that case.

"To the question about this being premature. Again, everybody keeps asking what the costs are going to be. I want to see the numbers. You can never get to those numbers unless you do an RFP and get an idea of what the actual costs are going to be. Then they go back and the PUC can plug those into the rate case and actually put those through a rate case hearing, and then we can see what those rates would be proposed. Mr. Speaker, thank you."

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

"Thank you, Mr. Speaker. In support. I would like the words of the Vice Chair of Energy entered into the record as if they were my own. And just to note since, although I agree with the Chair of Transportation, that boat has not sailed, if you look at the court's opinion on ..."

The Chair addressed Representative McKelvey, stating:

"Representative McKelvey, you're out of order. We're not addressing the Superferry. We are discussing the underwater cable."

Representative McKelvey continued, stating:

"Okay, I'm sorry. I'll save it for another day. But anyway, this is important, Mr. Speaker, because if you were at the briefing for the interisland cable, the fact of the matter is, most of the renewable energy resources, the best locations for wind and other types of renewable energies are on the Neighbor Islands, but yet the bulk of the consumers are here on Oahu.

"And another advantage of this cable, and again this is just a regulatory framework. No company has been chosen. Nothing's being done. We are just setting up a framework. But there's space in the conduit for fiber to also connect our islands with broadband. And that's really important. If you want to have a smart grid; if you want to have wheeling; or to quote our good friend from Hawaii Kai, to have solar on every roof, you're going to need that connectivity. Not only for transmission of energy, but also a fiber so you can coordinate these grid systems.

"So again, I think that this is a step in the right direction of looking at a regulatory framework to address these overarching issues. And by the way, this initiative, if I remember correctly, like the other issue, was that of the last Administration, and I concordantly still support it. Thank you."

Representative Thielen rose to respond, stating:

"Thank you. I wanted to just quote from Isaac Hall's testimony just a brief section of it. Mr. Speaker, he is representing the Friends of Lanai and I believe he was very involved as one of the attorneys in the Superferry legislation and won that case in the State Supreme Court. He states:

"This is illegal special legislation modifying our public utilities law, Chapter 269 HRS, for the benefit of a single project, the Hawaii Interisland Renewable Energy Program. For the Hawaii Interisland Renewable Energy Program alone, this bill strips generally applicable provisions from Chapter 269 intended to protect the public and ratepayers from the risks inherent in this project."

"He goes on and I'd like to have some sections of this put into the Journal, Mr. Speaker. I won't ask for the entire three page letter to go in. But we also have the Native Hawaiian Legal Corporation which states, and I quote:

"The proposed legislative findings about the project's desirability are premature. Scoping for a joint state-federal environmental impact statement about this project is still on-going. During scoping, the state and federal agencies considering this project are required to identify issues that warrant further study. That means as of today, we have not even identified all potential impacts that must be considered in an EIS."

"This bill is premature, Mr. Speaker. And as being premature, it has some serious defects. So why do we cost the State more money in having to go to court to defend again against something that is premature that we should have thought out more clearly. Thank you."

Representative Thielen submitted the following remarks:

"The transparent purpose of this Bill is to attract private investors as applicants for the Right of Entry from the federal government for the interisland cable by eliminating all risks from this "investment" by requiring that all costs will be reimbursed by Hawai'i's public utility company through funds collected from the ratepayers, Hawai'i's citizens.

"The ratepayers paying the bill for the interisland cable are never clearly identified. Are they Oahu ratepayers? Oahu and Maui Country ratepayers? Or will ratepayers statewide be forced to pay for this project?

"The Bill does not provide even an estimated cost for the undersea cable and additional infrastructures. Any Bill whose purpose it is to obligate Hawai'i's citizens to pay for a huge utility capital improvement project should, at a minimum, include an estimate of the costs that the Legislature is shifting to its citizens.

"A joint federal and state Environmental Impact Statement ("EIS") for HIREP has been initiated. Until an adequate EIS is completed for HIREP it cannot be known whether an interisland cable is "feasible and necessary," whether wind farms on Lanai and Molokai can produce "four hundred megawatts" of electricity and whether or not ratepayers will benefit in any way from this project. It is premature to make "legislative findings" on these subject matters without the benefits of a complete, adequate EIS.

"SB367 and HB1176 and the actions authorized through these Bills constitute commitments to a particular alternative in violation of NEPA and HEPA. The alternative of wind farms on outer islands supplying electricity to Oahu via an interisland cable is one of several alternatives that are required to be studied in detail in the EIS before it any one alternative is selected or implemented.

"The Public Utilities Commission cannot approve any cable certification application or grant any other discretionary approval related to this project unless and until the environmental review process is completed in compliance with state and federal law.

"The Legislature should take no action on Bills of this nature until the full impacts of the project as a whole have been completely disclosed in adequate EISs."

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

"Thank you, Mr. Speaker, I rise with reservations. I just want to add one more note to the Representative from Kailua's comments. It's estimated that this is going to increase our rates by 25%. Thank you."

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

"Thank you, I rise in opposition. Thank you. My concerns are the cost factors, the uncertainty, the risk that is quoted. I understand this project would be priced based on risk, yet the developers of the project would not in fact have risk because if the project is terminated before completion, the ratepayers of this island will make them whole. So the risk falls upon the ratepayers of this island, yet the developer charges at the risk. There's a disconnect there that I find seriously flawed.

"Also I'm not convinced that Hawaiian Electric is the most reliable organization in this State based on just looking at the recent power outages in a brand new subdivision. They couldn't deliver the electricity. So I'm concerned about rolling forward with this at this time for an interisland cable for windmills on islands where people have expressed that they're probably not happy to have the windmills. So I have concerns and I will be voting no."

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

"Mr. Speaker, in support. Just very, very briefly. I wanted to counter the arguments that this has to do with a general versus a special law. Under Article XI, Section 5 that specifically limits the legislative power over lands owned by or under the control of the State or its political subdivisions. So the only reason that the Superferry was triggered was because we were dealing with lands owned by the State and that is not the issue that's before us here.

"This is a regulatory bill. This is what we actually would need to do if we're going to have an interisland cable. It's regulatory. It's not dealing with a land *per se* and therefore, I don't think the Superferry is applicable."

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

"Mr. Speaker. In support with reservations, and just a few comments. While I support the initiative that is taking place with our renewable energy, I'd like to also, as the Representative for Lanai, recognize and acknowledge my constituents who are concerned as well. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1176, HD 3, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY TRANSMISSION CABLE," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Pine, Riviere and Thielen voting no, and with Representative Morita being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 885) recommending that H.B. No. 1598, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1598, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CACAO INDUSTRY," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Hanohano and Keith-Agaran voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 886) recommending that H.B. No. 285, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 285, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 888) recommending that H.B. No. 1277, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1277, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE STATEWIDE AGRICULTURE WATER DEVELOPMENT STUDY," passed Third Reading by a vote of 51 ayes.

At 3:27 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 952, HD 1  
H.B. No. 953, HD 2  
H.B. No. 566, HD 2  
H.B. No. 1176, HD 3  
H.B. No. 1598, HD 2  
H.B. No. 285, HD 2  
H.B. No. 1277, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 889) recommending that H.B. No. 123, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 123, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTRA-STATE AVIATION," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 892) recommending that H.B. No. 1090, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1090, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1090, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 243, HAWAII REVISED STATUTES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 893) recommending that H.B. No. 1240, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1240, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 894) recommending that H.B. No. 608, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 608, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 895) recommending that H.B. No. 614, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 614, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 896) recommending that H.B. No. 756, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 756, HD 3, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 756, HD 3, entitled: "A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 903) recommending that H.B. No. 1203, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1203, HD 2, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1203, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN WORKFORCE ASSESSMENT," passed Third Reading by a vote of 51 ayes.

At 3:29 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 123, HD 2  
H.B. No. 1090, HD 1  
H.B. No. 1240, HD 2  
H.B. No. 608, HD 3  
H.B. No. 614, HD 2  
H.B. No. 756, HD 3  
H.B. No. 1203, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 905) recommending that H.B. No. 231, HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 231, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like to ask to insert written comments. In strong support. Thank you."

Representative Cabanilla's written remarks are as follows:

"Mr. Speaker, I am rising in strong support of this measure. As your Chair of the Committee on Housing, this bill is necessary and prudent.

"Residents of public housing have voiced their strong support for this bill, as they are extremely concerned about the safety and well being of their families, and their neighbors.

"It is no secret that public housing areas attract illegal gang and drug activities. While we have made great strides, there still exists a lot of apprehension by the tenants about their public safety and well being.

"The safety concerns of the public should always be a priority.

"Allowing a safety protocol such as issuing visitors pass, will increase security and awareness in public housing units. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 231, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Third Reading by a vote of 50 ayes, with Representative Chong being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 908) recommending that H.B. No. 1326, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1326, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, it is important that State policy reflect a goal and direction that guides State actions and determined the appropriate expenditure of State resources. The Hawaii State Plan embodied in Chapter 226 Hawaii Revised Statutes was a bold attempt to set these goals and directions for the State of Hawaii.

"This bill seeks to require the University of Hawaii Board of Regents to periodically review the priority guidelines for quality education and recommend amendments to the Hawaii State Plan for consideration by the Legislature to insure that the programs and initiatives of the State's University are in concert with the policy direction of the State. In this process, the University will also be responsible for the development of a functional plan that includes strategic goals, outcomes, and performance indicators that would demonstrate the University's execution of the State Plan."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1326, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes, with Representative Chong being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 910) recommending that H.B. No. 1034, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1034, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Yes, Mr. Speaker. I have reservations as well on this with a couple comments. What Stand. Com. Rep. No. 910 does is it basically funds Governor Abercrombie's commitment to change the health insurance or the benefits to 60/40. Basically having the State pay more for benefits. And this is while we are facing an \$800 million budget shortfall. I just believe

that this is premature at this time, Mr. Speaker. It's a great cause, but I think it's a little foolish to rush this before we finish the budget."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1034, HD 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 50 ayes, with Representative Chong being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 911) recommending that H.B. No. 467, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 467, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WHISTLEBLOWERS' PROTECTION," passed Third Reading by a vote of 50 ayes, with Representative Chong being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 913) recommending that H.B. No. 1041, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1041, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1041, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Third Reading by a vote of 50 ayes, with Representative Chong being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 914) recommending that H.B. No. 837, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 837, HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE BENEFITS," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Ching, Marumoto, Pine, Thielen and Ward voting no, and with Representative Chong being excused.

At 3:33 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 231, HD 2  
H.B. No. 1326, HD 2  
H.B. No. 1034, HD 1  
H.B. No. 467, HD 2  
H.B. No. 1041, HD 2  
H.B. No. 837, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 915) recommending that H.B. No. 1038, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1038, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. On Stand. Com. Rep. No. 915. I'm in opposition to this bill because of the change of the retirement age for police officers and firefighters. Presently it's 25 years, and now that changes it to 55. Recognizing that police officers and fire fighters work at a very difficult job, they should be able to be retired after 25 years of service and not made to be forced to work until 55. Thank you."

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

"Yes, Mr. Speaker. I wanted a ruling on a potential conflict, possibly for all of us. This bill does relate to all of our pensions because it includes us."

The Chair responded, stating:

"I believe as a class we are all not excused from voting on this. So we all have to take a vote."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1038, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 916) recommending that H.B. No. 1051, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1051, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 917) recommending that H.B. No. 1411, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1411, HD 2, pass Third Reading, seconded by Representative Evans.

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

"I stand in opposition. There is a bill that we passed earlier today, I believe it was 879, and that contained the recommendations from the Mortgage Foreclosure Task Force that was convened, and it is generally accepted as the best solutions for the problems at hand facing us with mortgage foreclosures. This bill, HB 1411 incorporates other elements which I believe will have a real adverse effect in several ways and if I may address just a couple of them.

"There is one item where it requires physical presence in the State of Hawaii. That sounds like a great idea because the local banks did a reasonably good job as we went by, and there were some mainland banks that were not exactly doing a good job. There are good groups on the mainland however, such as USAA. They've submitted testimony that now they will be precluded from providing mortgage services. So limiting mortgage opportunities for residents of Hawaii is not a good thing especially when you've got good companies that will be excluded.

"There is a foreclosure moratorium. The Members may remember that I do not support moratoriums because they send shudders through the industry with the uncertainty that they bring.

"There is one element that was recognized as probably good and it is mediation. However, mediation without parameters on results can end up in endless, endless mediation, thereby creating more hardships.

"And we must remember that when we create uncertainty in the market we destroy market value. Homeowners will suffer by having market value uncertainty. If you live next door to three houses that are in a perpetual foreclosure, the value of your home will be sinking and will not stabilize until all of the uncertainties in your neighborhood get resolved.

"Then moving the items from non-judicial to judicial, that's enclosed in the 879 in a better way and there is the fear that, I think the Judiciary testified it will cost something like \$4 million or more, plus bog down the courts in about a year if everything were to just suddenly be pushed into judicial.

"So there are many, many issues with this bill that I think while the intentions are good, I just think there are too many problems with this bill to put it forward. If there are any elements such as mediation that require or warrant continuing, I will suggest that those decent elements be maybe amended in 879 as it goes along. And that's what I think. Thank you."

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

"Thank you, Mr. Speaker. In support. HB 1411 is a work in progress. We've got three objectives for HB 1411. The first is to have a vigorous ongoing mortgage loan system in the State of Hawaii.

"The second is to try to figure out how to deal with those people who have had some economic difficulties, to make sure that they have an opportunity to meet directly with a representative of the mortgagee. And we have dealt with that in a variety of issues. One being mediation and there is a time limit on the mediation of one month. We've talked to the State Mediator and what plan there is to find people who are familiar with banking and teach them mediation.

"And there are a lot of other protections in there. For example, we've had a problem with mortgagees on foreclosure advertising only in the local paper when they're going to do a foreclosure auction in Kona. And so we've dealt with that issue. There's been some concern about where the auctions take place. In some cases nobody knows where. We've specified where those auctions will take place.

"We are very cognizant of if you have an ability. If the mortgager has the ability with hard times to be able to service a mortgage at some level agreeable to the mortgagee. We want that to happen and that's what we're driving. If you have no intention of paying anything, we have no sympathy for you. So we've been trying to deal extensively with that issue.

"Our third objective is to make sure that we don't overburden the court system. I will say, Mr. Speaker, that we have met extensively, extensively with the mortgage brokers in the State of Hawaii, almost on a daily basis. The purpose of the moratorium was to get the attention of the offshore banks.

"We got their attention. They came down here. Bank of America met with every one of your offices. They went to 76 legislative offices in the State of Hawaii. I have met with them. Yesterday I met with two other mainland banks. We got their attention and what the Bank of America is going to do is, they're sending a swarm of mortgage people down here to deal with all of their mortgage loan problems on every island. They'll have people on every single island to deal face to face, with those people who are having problems.

"Is this bill perfect? No. We admit that it's still a work in progress. We said to the Finance Committee just please move it on. We have a lot more time to work on it. As I said, our intentions are clear. And as I said, we have met extensively, extensively with consumers and with the banking industry. We urge your support."

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

"Thank you, Mr. Speaker. May I have the same ruling on a potential conflict that I raised earlier?" and the Chair ruled, "no conflict."

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

"Thank you, very much. In strong support, again. First I'd like the words of the previous speaker adopted as if they were my own. And second is I would like to have all the Members look at what this bill is trying to do, and that's to fix the bifurcated system of Chapter 667 that has made a mockery of non-judicial foreclosures and has put homeowners at the most disadvantageous place I think, in the United States.

"This Body, this State has adopted a two track 667 system, Mr. Speaker, which allows the lender to unilaterally choose which track. And because of a poison pill in part two which contains the homeowner protections, the lenders choose part one, which provides no protection and also allows, Mr. Speaker, them to go after the homeowner in deficiency.

"The whole idea of non-judicial is that the lending institution gives up the right to not go after the personal assets of the family so they can rebuild their lives in exchange for using this system that takes it outside of the courts. They proverbially, can have their cake and eat it too.

"And with all due respect to my colleague from the North Shore, the system now is failing. The system now is driving down prices, Mr. Speaker. Just in the paper the other day, prices have depressed 11%. This situation is out of control.

"Not to mention in 667-34, Mr. Speaker, is a 30-day 'get out' clause which says that if you don't object to a non-judicial foreclosure within 30 days after it's concluded, it's presumed that the non-judicial foreclosure was completely done ethically and above law. If you have reasons of fraud or collusion or any of the things, you can no longer bring them, even though the statute of limitations for these kinds of actions is normally five years.

"A lot of the people who worked on this bill came from the lending institution, the real estate community and others. The system itself is broken. This bill seeks to fix the system so that the homeowners and the lenders have definite steps that if they are met then yes, as the speaker said from Kau, if that can't happen, then they will be allowed to non-judicially foreclose.

"But there's other things in this bill too. For instance having a central location of a non-judicial auction. That brings all the earnest buyers together in one place, Mr. Speaker, so that you can drive up the auction so that not only will the lender get the full value of the note, but there's a chance the homeowner might actually get equity out of it.

"That's the thing right now. There are no protections. If we want a strong mortgage market and to protect our homeowners, we can do this, but addressing that starts with 667, Mr. Speaker.

"Right now, Mr. Speaker, and I'll use my family as an example. Right now we have non-judicial foreclosures being issued by agents of these same entities foreclosing on people who don't even live on the property. They aren't on title, or aren't even on the note. Mr. Speaker, I've seen non-judicial foreclosures issued in the name of 'occupant'. How can occupant go to the court or how can occupant defend against that? Who is occupant? Who is occupant, Mr. Speaker? Nobody knows. You've got them foreclosing on occupant, on resident, on people who aren't even associated with the note or with the property itself.

"That's what the bill seeks to do. All the homeowners in the State of Hawaii want, Mr. Speaker, is to sit down face to face with one entity and just get a straight answer. Can we work something out or not?

"Let me use another example. You've got a homeowner paying the lender their monthly mortgage. They go ahead and they try to renegotiate their remodification with this lender and a third party comes in, Mr. Speaker, and forecloses.

"How is that fair to the homeowner? How does that create a system of fairness? Our capitalistic system, our economy is based upon good faith

and fairness. How can anybody negotiate if you've got third, fourth, fifth party entities coming in?

"What this bill seeks to do is to bind them all together with one voice and presence in the State of Hawaii so that the homeowner can simply sit down and say, can this work or not? And I think that this is a work in progress, but the overall aim isn't to destroy the mortgage market. It's not to scare away veritable lenders. It's to provide a system of fairness so both sides know that there are protections, there are steps, and if they are followed, then perhaps there can be a resolution.

"Because if our working people continue to lose their homes, continue to go through the stress of not getting a straight answer of these and third and fourth collateral foreclosures, Mr. Speaker, I've got files of information of stories that would break your heart."

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

Representative McKelvey continued, stating:

"That would break your heart, Mr. Speaker. The families are dealing with, and they're all the local people. Maybe it's because the local community has grown up with the idea of when you make an obligation, a note, that all you want to do is to be able to talk to that lender entity when times are tough to see if you can work things out.

"So Members, this is a work in progress, but the problem is real. And I invite you to walk through your districts because you will hear from other people too. This is a growing problem not only in the State of Hawaii, but nationally. And if we don't do something to address this Part 1 and Part 2 of Chapter 667, then what will happen is this will continue to go on, and on, and on, and erode any type of economic recovery. So again thank you, Mr. Speaker. And thank you Vice Chair, for your time."

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

"Yes, with support with some reservations. I would just like to say a couple of sentences. I really want to thank the Chair of CPC for taking the lead on this. It's a very complicated matter. But I also want to thank the Representative from North Shore. I think we should all heed his advice because he knows his business better than any of us. So as we move forward, I hope that we can all come together to accomplish the goals that the Representative from Maui was talking about. But we need to put all of our heads together to ensure we do this right."

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

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

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

"Thank you, Mr. Speaker. I rise in support. I want the comments from the Representative from Kau, and also from Lahaina as my own in the Journal. And I wanted to just point out that I really came in this year to the Legislature knowing that if we didn't address mortgage foreclosures, we weren't doing our job.

"I know of three incidences, one that really disturbed me, when a woman told me that she went home one day and the new owners of her house were there at the front door saying, 'We bought your home on the court house steps in Hilo.' And she said, 'How can that be? I never got notified.' She had been calling and working with her bank.

"There was, I guess you call it, a new way of doing business with people and that is you call in. You get a person in Costa Rica, or the Philippines, or India, who would type in your loan number. It would pop up on a screen and they'd say, 'Okay why are you calling?' They would start down that process and they'd say, 'We'll get back to you in five days.' Five days would go by and then they would call two weeks later and, get a new

person on the phone. They would type in their number in the computer and they will tell them, 'Well this is what we saw you did. You contacted us, but we need to continue working.'

"And here's the bottom line of the conversation. They wanted to do loan modification and the people would say, can I make payments on my house even if they're partial payments. The answer was always given, no, because you're in loan modification. So they wouldn't make their payment. They'd call a month later and say, I want to make a payment because I'm getting nervous, and the answer would be, 'No. Because you're in loan modification.' So now four, five months go by and they'd call up and say, 'Well, what's my status?' and they said, 'Well we're foreclosing on you because you're behind in payments by x amount of thousands of dollars.'

"And so they would see me. I saw three people and they would just see me in the grocery store. One lost their house on the court house steps without even knowing. Of course they came to Honolulu and found some attorney. They went into lawsuit against the bank. But the other ones came to me in tears and I said, 'My best answer to you is call our US Senator Dan Inouye and tell his staff whose going to call the Bank of America or Wells Fargo and get to the president and say, What the heck's going on?' I actually found that was a little more successful because it did get some attention.

"But the thing is, we as legislators, and through our Representative from Kau who's taken the leadership, and I really thank him for this, we had to address this issue because it was harming way too many people and the miscommunication and the process was not working. And his bringing it to attention, getting their attention, is admirable and we cannot stop this Session without keeping their feet to the fire and addressing this issue. Thank you, Mr. Speaker."

Representative Pine rose to respond, stating:

"Yes, another comment with reservations. Mr. Speaker, I'm almost shocked. I thought all these stories only related to the people in my district, so I'm proposing, Mr. Speaker, because of the seriousness of the fraud that's going on to the people of Hawaii, that the final bill be retroactive when it refers to when fraud has taken place, so our constituents who have already lost their homes because of fraud and mistakes by the banks, they should be compensated."

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

"Thank you. Before I go further I would like a ruling on a potential conflict. I'm a mortgage broker and have been for 20 years," and the Chair ruled, "no conflict."

Representative Riviere rose to respond, stating:

"Thank you. I do wish to be clear, and I do appreciate the work that the Chair of CPC, the Representative from Kau has done, and the other Members of this Body. I am not saying that there is not a problem here. There is a problem, and it needs to be fixed. What I am trying to share is that we have unintended consequences if we are not careful.

"So my comments on this bill relate to things such as a clause that says that the lender upon foreclosing, the beginning of foreclosure process, the lender will be responsible for maintaining the property. That's crazy. I don't know why that's in there. I mean this is what I'm saying. There are elements in this bill that should not be there and we have to be very, very careful.

"So that's what I'm saying. It needs to be fixed. I'm glad we're working on this. This bill is obviously going to go forward, but again, let's try to stick to what was agreed upon in the Mortgage Task Force as they are the ones that have put the maximum amount of thought into this one. Thank you."

Representative Herkes rose to respond, stating:

"Thank you. We have met extensively with the Chair and Vice-Chair of the Mortgage Task Force. We passed their bill out. We wanted to keep the title alive. We've adopted portions of their recommendations that we saw were appropriate.

"And let me just say another couple of things. When the Mortgage Task Force recommendation came out that said on your option, you can go from non-judicial to judicial. What that did was, it spooked Bank of America to the point that they thought, 'My god, if we actually passed that and they can't go into non-judicial,' and they flooded the market saying how many homes in Hawaii they could foreclose on before we passed that recommendation of the Task Force.

"Then when there were certain things that happened to other homes like when we passed the moratorium, that also sent a strong message to Bank of America. Bank of America has 62,000 loans in the State of Hawaii. And what they did when they bought Countrywide, they bought a whole bunch of junk, bad loans, and now they're just trying to dump them. But we've gotten their attention so they understand that we're serious and they are going to try to work these loans out.

"And again, it's a work in progress as far as maintaining a structure. If you take over the structure and it's vacant, maintain it. Don't let a whole bunch of squatters go into the house. We're trying to deal with all of these issues. Thank you, Members."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I'd like to have the words of the Representatives from Kau and from Lahaina to be inserted into the Journal as my own. And just a few comments, Mr. Speaker. Yes, as my colleague from Waimea said, if we did not address this issue, we did not do our job.

"As a Representative who represents three islands, I have seen so much devastation because of the foreclosures. Some of it has been because of the consequences of our economy and what took place in losing their jobs. But some of them were mistakes on the financial institution's part where some of my constituent's neighbors were getting foreclosure notices and they weren't even in a foreclosure. Or their homes were getting auctioned and they weren't even in a foreclosure.

"But I think the main point of what our Chair of CPC was trying to do was to address the concerns that were brought forward, not just to the Legislature, but also to the department as we heard the complaints and heard the concerns about truly helping those who want to be helped. Who have done everything possible like our foreclosure attorneys who testified and said, 'We're there to answer the calls, and we're there to do the modification.' Well that's not true. And even the person who represented DCCA in testifying, he also felt that there were concerns.

"So some of the things that are in the bill are truly to address the things that are workable and reasonable so that we can actually keep some of our people in their homes. Yes, it's not a perfect system, but the whole point is that we are addressing the concerns that we can address and hopefully, this draws attention to what took place across the nation so that more things can be improved.

"But I think the last comment I also want to make is that we need to look at those who are part of this MERS that took place on Wall Street. We need to look at the taxes that were never paid or due to the State as well. So there are many different levels of concern regarding what took place across the nation. Mr. Speaker, if I may I'd like to have permission to insert comments as well, in the Journal. Thank you."

Representative Carroll's written remarks are as follows:

"I am in strong support of HB 1411 HD2 as it will amend Hawaii's current home foreclosure laws by repealing the old non-judicial foreclosure process, as contained in Part I of Chapter 667 of the Hawaii Revised Statutes, and clarifies the new process, strengthens laws regarding mortgage servicers, broadens the duties of the Center for Alternative Dispute Resolution, adopts several recommendations of the Mortgage

Foreclosure Task Force, implements a comprehensive foreclosure mediation program, and imposes a mandatory foreclosure moratorium.

"We all have been affected or know someone that has been affected by the predatory lending practices of the financial institutions on the mainland. Our local homeowners that were targeted and are now in foreclosures are suffering unnecessary confusion, frustration, depression, and anger. There has been a lack of direct communication and unwillingness on the part of the financial institutions to work out a remedy or solution to the foreclosure process that will benefit the mortgagee. I strongly feel that this legislation will persuade the industry to assess the situation and come to the table to find a viable solution, be it via mediation, loan modifications, negotiations, a forgiveness process, or other effort to help keep our families in their homes. This piece of legislation will help many of our constituents being faced with evictions until further transparency, clarification, and solutions can be achieved."

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

"Mr. Speaker, I rise in support of this measure. I'd like to adopt the words of the Representatives from the districts of Maui and Kau as my own. Mr. Speaker, before I came here to spend most of my time as a legislator, I had the privilege of working as a Legal Aid attorney and I specialized in the area of consumer protection, and in that regard I had the opportunity to do a lot of workouts on foreclosure issues with many of the local and national banks.

"So I really appreciate the discussion going on here regarding mortgage foreclosures and the loss of one's home. Nothing can be more painful or tragic to a family, than to lose your home, your very abode of which most of us would be just torn if we were to lose it. So I feel a great deal of empathy with the folks that are going through this process right now.

"What I find so astounding is that anyone would stand here and defend the Bank of America. A friend of mine listening in just reminded me that Bank of America was one of the first private banks to receive \$45 billion in TARP funds. That's the Troubled Asset Relief Program. These are moneys that came from taxpayers.

"It was done back in 2008 by former President Bush as a way of holding off a further catastrophic demise of our economic system in America, and possibly the world. Many private banks took advantage of this. They took advantage of the ability to use public moneys, taxpayer's moneys to salvage themselves and keep them afloat for much of the last two years.

"There's been some repayment, but it's quite astounding, Mr. Speaker, that even with the public largess to backstop these banks, that they continue to move forward and plow under, and plow through, and bury over the same taxpayers whose dollars have allowed them to be here today. And I think this is really a moral question and I hope that we can work on this bill as a work in progress.

"But at the end of the day, if you need to choose between the consumers, your constituents, the homeowners and the banks on Wall Street who took advantage of the taxpayers, and for-profit institutions, corporations that have no allegiance to the community or the people, we've got to side with the people, Mr. Speaker. Thank you."

Representative Ward rose and stated:

"Mr. Speaker, just a point of clarification. The previous speaker implied that someone stood up and I didn't hear who it was who said that they were defending the Bank of America. I didn't hear anybody say that, and I wasn't sure what he was referring to. But if it was, it should be stricken. Thank you."

The Chair addressed Representative Ward, stating:

"Representative Ward, you are out of order at this point."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1411, HD 2, entitled: "A BILL



FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Riviere voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 920) recommending that H.B. No. 257, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 257, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 923) recommending that H.B. No. 809, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 809, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this measure. I guess my question to my colleagues is, are we sure we want to do this? Do we want to raise the TAT tax? Unbeknownst to me, even though we think that it's thriving and business couldn't be better in Hawaii, if you look at what's going on in the mainland, this market has basically fallen out from the bottom.

"And I quote from an article from the *Dow Jones Newsletter*. It says the dirty secret of the timeshare industry is that anybody who buys one of them has been a victim of aggressive sales seminar. But the interesting thing is that the article ends by saying, what used to be the high pressure sales seminars are now, you go into the seminar and they'll tell you how lousy the timeshare market is and how your children will be burdened. And for the rest of your life you're going to be paying off the high maintenance fees. For a fee of \$3,000 they'll take it off your hands. In other words, it used to be selling seminars and now it's where they want you to dump it.

"Marriott has gotten out of the industry on the mainland. The mainland timeshare industry is basically dead. Ours fortunately, because of our beautiful location, is alive.

"But Mr. Speaker, I just want to caution Members that if this is the trend, and all of you know what dinosaurs are. When there's a trend in an industry like butcher shops, and the Blockbusters, the video guys, the Beta guys. When you see that they're dying, you don't jump on top of them and kick them. You don't jump on top of them with taxes like this.

"So even though it's reasonably robust now, I would caution saying that this is going to be a visitor industry killer if we keep pushing it. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition of this measure. I know we need to find revenue streams, but after Hurricane Iniki the hotel industry on Kauai was devastated due to the severe damages suffered. The development of timeshare units enabled the tourism business to flourish, which in turn lead to the growth in business and employment.

"I truly believe that the longer stays by timeshare owners benefit the islands and I'm not willing to risk supporting this tax increase which in turn may lead to selling off of units. The spending to other businesses on the island will make up more tax benefits in the long run. Thank you."

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

"Yes, Mr. Speaker, I rise in opposition to this measure as well. When we're talking about a hotel room, and we're talking about a timeshare unit,

it's like comparing apples to oranges. Timeshares are fractional ownership so the folks that buy these units actually pay maintenance fees as was mentioned earlier, but they also pay property tax. So in essence, if we're going to pass this and we're going to now apply a tax that was originally intended for a hotel room and now apply it to a fractional ownership unit under the guise of resort timeshare, I believe is really unfair. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 809, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Brower, Ching, Fontaine, Marumoto, McKelvey, Morikawa, Pine and Ward voting no.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 924) recommending that H.B. No. 526, HD 1, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 526, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 925) recommending that H.B. No. 1308, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1308, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DIGITAL MEDIA," passed Third Reading by a vote of 51 ayes.

At 4:04 o'clock p.m. Representative Rhoads requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:05 o'clock p.m. with Vice Speaker Manahan presiding.

At 4:07 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1038, HD 2  
H.B. No. 1051, HD 2  
H.B. No. 1411, HD 2  
H.B. No. 257, HD 2  
H.B. No. 809, HD 2  
H.B. No. 526, HD 1  
H.B. No. 1308, HD 2

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 928) recommending that H.B. No. 1551, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1551, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, can I have a ruling on a possible conflict? One of my law partners was retained to lobby on behalf of this bill after the introduction date," and the Chair ruled, "no conflict."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1551, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," passed Third Reading by a vote of 50 ayes, with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 931) recommending that H.B. No. 613, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 613, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Thank you. On Stand. Com. Rep. No. 931, briefly. May I request a ruling on a potential conflict? I broker health insurance," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 613, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 933) recommending that H.B. No. 845, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 845, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like to have a ruling on a potential conflict. I'm an officer of a company that has leases on private property," and the Chair ruled, "no conflict."

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

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

"I would like to get a ruling on a possible conflict. I'm a lessee. I own residential properties that are on leased land," and the Chair ruled, "no conflict."

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

"And in that respect I would like to speak in favor of the bill. Mr. Speaker, the majority of these residential properties are currently rented out as affordable rentals. It is estimated that by December 2012, approximately 18,000 residents will be displaced from these affordable rentals, as well as thousands more by the year 2018. It is presumed that once these rental units are surrendered to the lessor, they will become market rentals, or these residences will be demolished to make space for new buildings and all the current tenements will be displaced.

"Mr. Speaker, as your Chair of the Housing Committee I am very aware of the State's shortage of affordable rentals. I am very concerned that these displaced tenants will add to the growing problem of homelessness. We currently have over 7,000 unsheltered homeless individuals in the State who are draining our limited State funding. Displacement of tenants from these leased lands will absolutely aggravate an already grave situation.

"I urge you, Mr. Speaker, and my colleagues to push this measure forward for further discussion and I hope that the landowners will come forward and become partners in finding solutions for increasing the supply of affordable housing and affordable rental units. Thank you, Mr. Speaker."

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

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

"Yes, Mr. Speaker. I rise in opposition. I have a compassionate heart. I understand that this is only applying to residential properties. But at the same token the whole notion of forcing a landowner to sell his property, I question whether that's even constitutional. I agree that we need to sit down with the landowners and try to work out some sort of compromise, but this in essence would be a vehicle for that. And I think that the private property owners need to be able to develop their property and use it as they see fit. I do not believe that the government should be stepping in and interfering with the process of private landownership. Thank you."

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

Representative Johanson's written remarks are as follows:

"I rise with reservations on this particular bill. I do not believe property owners should have their property rights dictated to them or changed by government after they have purchased their property. However, I do recognize this bill's intent to try and help mitigate awkward situations that arise when lessees would like to extend their lease. I also have reservations about the amount of influence that an arbitrator would have if disputes were to arise."

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

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

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

"I rise in opposition. This bill would force a landowner – and the key word here is landowner; the person who owns the land – to engage in renegotiating with the tenant within ten years of the expiration of the lease. While that can be positive and can provide some continuity and certainty for folks as their lease draws near, by contract, when a lease expires, it expires. If you have a tenant renting your house and the rent expires, you have a right to renegotiate that rent. It's called ownership.

This is a terrible bill. The idea again, is well intentioned, but the impact is terrible because it's going to force the landowner to negotiate with the person renting. And if they can't agree, then the landowner has to sell the land. Where's the fairness in that?

"And not to belabor the point, but I've got to stand up for what I believe in. I hope you can all appreciate that. This is not a good bill. I'm voting no."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 845, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GROUND LEASES," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Fontaine, Har, Pine and Riviere voting no, and with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 934) recommending that H.B. No. 227, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 227, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition with a brief comment. Mr. Speaker, this is an anti-First Amendment bill and it holds publishers liable for what otherwise readers, heretofore were known as strangers."

At 4:13 o'clock p.m. Representative McKelvey requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvene at 4:14 o'clock p.m.

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

"Yes, I'd like to vote with reservations, please. And a couple comments. I have concerns that this bill could impact traditional and customary practices as recognized in the State Constitution and reaffirmed by the PASH decision. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 227, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRESPASS," passed Third Reading by a vote of 50 ayes, with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 935) recommending that H.B. No. 1230, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1230, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUILDING PERMITS," passed Third Reading by a vote of 50 ayes, with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 937) recommending that H.B. No. 117, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 117, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. On Stand. Com. Rep. No. 937, Mr. Speaker. With reservations and few comments. Thank you. The purpose of this special management area permit is to protect our coastal resources from potential impacts due to development.

"The bill was amended, but I don't think it was amended in a way in the Judiciary Committee that is really going to help preserve our special management areas, our coastal resources. The bill was amended to say, if you're building a residence that's 10,000 square feet or larger, then you're going to have to get an SMA permit. Well actually if you build a 5,000 square feet home on a coastal or beachfront area, it could be very damaging and that would be exempt from the SMA process.

"The other thing was that it's a little bit unclear if there is the dollar criteria that is still applying. And it really isn't so if you have a no dollar figure, then you have a decision maker that's going to have to determine whether or not there would be any substantial adverse impact even if the residences is going to cost \$50, \$75, or \$100,000. So that could lead to a lot of uncertainty and it could lead to some litigation.

"The better way was suggested by a person from Maui who had extensive experience with land use. I'm not sure if he was in the county government, but he said that we should make it a requirement that every beachfront or coastal front home has to have a SMA permit. And that makes a lot of sense when you stop to think of it.

"Because you could have a small residence perched up on a cliff overlooking the water, and that could have very damaging kinds of impacts to the water and to the coastal area by a relatively small-sized home that is not that costly. But if we really want to preserve our coastal resources, then every beach or oceanfront home should be required to have an SMA permit. That's the better way to go.

"So I'm hoping that as the bill moves forward to the Senate, I believe this gentleman will testify over there and I hope that our side will be receptive to the changes that would say, 'You build oceanfront, you build beachfront, you have to go through an SMA permit because we want to protect our coastal resources.' Thank you."

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

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

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

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

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

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. I'd also like to just note that this is one of the three bills that the Sierra Club opposes in its current form. And I think we can correct it on the Senate side, but I would hope that Members would show their reservations and read what the Sierra Club had said. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 117, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL MANAGEMENT AREAS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative M. Lee voting no, and with Representative Takumi being excused.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 938) recommending that H.B. No. 548, HD 2, as amended in HD 3, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 548, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker. Stand. Com. Rep. No. 938 is the one that is the second bill relating to trespass that I should refer to. And hopefully the same language of being against the bill having it as anti-First Amendment. And the media's very concerned. If anything, it distracts from what we're doing in another bill that basically takes away the sunset on the media shield. 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. 548, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TRESPASS," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Belatti and Ward voting no, and with Representative Takumi being excused.

At 4:22 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1551, HD 2  
H.B. No. 613, HD 1  
H.B. No. 845, HD 2  
H.B. No. 227, HD 2  
H.B. No. 1230, HD 2  
H.B. No. 117, HD 2  
H.B. No. 548, HD 3

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 939) recommending that H.B. No. 56, HD 1, as amended in HD 2, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 56, HD 2, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 56, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD VISITATION," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 940) recommending that H.B. No. 1407, as amended in HD 1, pass Third Reading.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1407, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I rise in opposition to this measure. One of the things as a legislator is it is our responsibility to protect the interest of third parties. Many women that put up their child for adoption do so with the understanding that their identities will be kept private and they will not be contacted.

"Aside from corrupting that understanding and requiring these women to reapply for their privacy every ten years is yet another deterrent to the practice of adoption. This bill jeopardizes the security and privacy of women who have decided not to have an abortion.

"Furthermore this bill subjects these women to extensive inconveniences and emotional discomfort by requiring that they relive the experience of giving up a child each subsequent time that they must reapply for their privacy. As the bill stands right now it's every ten years.

"It's a concern of mine that the new provision set forth in this bill may prevent some women from going the adoption route. They may feel forced

to take the abortion route because of the privacy issue. It's for these reasons, Mr. Speaker, that I respectfully oppose this measure. Thank you."

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

"Mr. Speaker, I also rise in opposition to the measure with a very brief comment. Privacy is privacy. Privacy is privacy whether it's afforded to those who choose to adopt-out their child, or should be afforded to those who choose to abort the child. It's a matter of parity of privacy. It's as simple as that. Thank you."

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

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

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

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

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

"Thank you, Mr. Speaker. With reservations. Real quick, I was in opposition to this bill in the form it arrived in, in Judiciary. However, I'm going with reservations because I believe that the Judiciary Chair has worked hard to address the concerns of those in opposition. So I'm still with reservations, but I think we need to allow him to continue his work with the groups that were opposed to this bill. 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. 1407, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADOPTION RECORDS," passed Third Reading by a vote of 43 ayes to 8 noes, with Representatives Fontaine, Har, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 942) recommending that H.B. No. 1141, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1141, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INFORMATION PRACTICES ACT," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Riviere voting no.

At 4:26 o'clock p.m. Representative Chong requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:26 o'clock p.m.

At 4:27 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 56, HD 2  
H.B. No. 1407, HD 1  
H.B. No. 1141, HD 2

### THIRD READING

#### H.B. No. 1637, HD 1:

Representative B. Oshiro moved that H.B. No. 1637, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, with reservations. Mr. Speaker, the Hawaii State tree is the candlenut tree, *Aleurites Moluccana*, also known as the *kukui* tree. To my recollection, Hawaii is the only state with a State tree that isn't native to its environment. The *kukui*'s origins are hard to trace, but it is likely native to Malaysia and parts of Polynesia, but not the Aloha State. We should re-think the *kukui* tree as our State Heritage Tree.

"Prior to statehood, the official tree of the territory of Hawaii, was the *Cocos Nucifera* a member of the palm family also known as the coconut tree. The *Cocos Nucifera* was never given the chance to serve as our State's true symbol as a tropical destination. This bill should be about the coconut tree. Or better yet, a better choice for the native tree would be the *Acacia Koa*, a species of flowering tree in the pea family, endemic to the Hawaiian Islands, where it is the second most common tree. Its name in the Hawaiian language, *koa*, means brave, bold, fearless, or warrior.

"The *koa*'s trunk was used by ancient Hawaiians to build *wa'au*, outrigger canoes and *papa he'e nalu*, surfboards. *Koa* is also a tone-wood often used in the construction of *ukulele* and acoustic guitars. The *Acacia Koa* is the largest native tree to Hawaii, known to be a premier timber, and one of the most expensive in the world.

"Summarizing, Mr. Speaker. I am in reservations with the *kukui* tree, *Aleurites Moluccana* as the State Heritage Tree and the *Ohia Lehua*, *Metrosideros Polymorpha* as the State Tree. Thank you."

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

"Thank you, Mr. Speaker. In strong support. I first just want to clarify that the *ohia* is the most common native endemic tree, and the *kukui* is controversial. It's not clear whether it was introduced or if it was indigenous, but it is not endemic, which means it's found in other places.

"The coconut tree originated either in India, Indonesia, or Egypt. It is not clear which, but it was brought to the Hawaiian Island. I suggest that if the former speaker is concerned about the coconut tree, then maybe we can adopt something to reflect the tree that was imported for food. And may I please insert written comments. Thank you, Mr. Speaker."

Representative Wooley's written remarks are as follows:

"I am happy to support this bill and very impressed to see the Representative from Waimanalo work so hard to pass a bill that his community asked for. This bill, if it becomes law, will have only positive educational benefits for locals and tourists alike. Hawaii's unique trees should always be revered and recognized, for their ecological and historical contributions to the people of Hawaii. This simple bill will promote the proper appreciation for the *'ohia lehua* and *kukui* trees. Mahalo to the Representative from Waimanalo for all his work."

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

"Yes, Mr. Speaker. In support with some reservations. While I find it personally disconcerting that we are discussing a tree on the House Floor, I do want to support the bill because obviously this was very important to somebody in this Body. I just wanted to note for the Members that while the Member of Waikiki's family is technically not all native to the State of Hawaii, we do welcome him with open arms as a local boy and a native today."

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

"'Ae, Ho'malu 'Olelo, reservations, kane Speaker. 'A 'ala ke koa maoli ... koa tree ono kanaka maoli, kukui tree malihini. Representative, malama, Lanikai, hapa-haole, pake, lolo mahalo."

Representative Brower provided the following translation:

With reservations, Mr. Speaker. Smells good, *koa*, native born, *koa* tree native, *kukui* tree foreigner. Representative from Lanikai is without color and well intentioned.

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

"Thank you, Mr. Speaker. Actually I had not thought about surmising on this measure, but in support. I thought I would just lend my own opinion. The *kukui* nut I guess, may not perhaps be, if it's controversially said indigenous to Hawaii, but the *kukui* nut has symbolized enlightenment.

"Enlightenment to our *alii* because of the candle nut's nature, it provides light and so it provides something very important in fact. It is my understanding that years ago, when I served a Member of this Body, that the *kukui* nut was oftentimes revered by people of chiefly status to remind them of who they served, the heavens, to do righteousness. And I know Price Kuhio was famous for his *kukui* nut. It became something that was famous. If you go ahead to the Queen Emma Summer Palace, you'll see some really beautiful *kukui* nut lei.

"And *ohia lehua*. Now that has a wonderful myth to it as well, symbolizing of course the love and devotion to people. So those are values of enlightenment and love, and I think those are wonderful, but of course that being said, although I am, I'd like to think I'm a *kamaaina*, I defer this to the Hawaiian Caucus. I'm sure that they have the best input of what it means to them.

"But I would like to hope that when we think of things that represent our people, that we want to take the highest and best use. To me it's never really been so much whether somebody, it's the meaning of what it stands for. The symbolism for our children that we want to tell them something by what we choose as our tree. Thank you."

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

"Thank you, Mr. Speaker. I have a potential conflict. I'm growing a couple of *kukui* trees in my yard," and the Chair ruled, "no conflict."

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

"Thank you, very much. In that case, I am in strong support and would like words of the speaker from Liliha entered into the record as if they were my own. 'Olelo Hawaii."

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

"In support. I'm almost not sure of what to say, but we have a budget to balance so perhaps we can move on."

The motion was put to vote by the Chair and carried, and H.B. No. 1637, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE TREE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Har voting no.

#### **H.B. No. 319, HD 1:**

Representative B. Oshiro moved that H.B. No. 319, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, can I request a ruling on a potential conflict? At my law firm I represent contractors, as well as owner-builders," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and H.B. No. 319, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OWNER-BUILDERS," passed Third Reading by a vote of 51 ayes.

#### **H.B. No. 468, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 468, HD 1, entitled: "A BILL FOR AN ACT

RELATING TO COUNTY ETHICS COMMISSIONS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Har voting no.

At 4:36 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1637, HD 1  
H.B. No. 319, HD 1  
H.B. No. 468, HD 1

**H.B. No. 141, HD 1:**

Representative B. Oshiro moved that H.B. No. 141, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 141, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Har, McKelvey and Pine voting no.

**H.B. No. 108, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 108, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1112, HD 1:**

Representative B. Oshiro moved that H.B. No. 1112, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and H.B. No. 1112, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Har voting no.

**H.B. No. 242, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 242, HD 1, entitled: "A BILL FOR AN ACT

RELATING TO PROMOTING PROSTITUTION," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1244, HD 1:**

Representative B. Oshiro moved that H.B. No. 1244, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and H.B. No. 1244, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLEMNIZATION," passed Third Reading by a vote of 51 ayes.

**H.B. No. 1155, HD 1:**

Representative B. Oshiro moved that H.B. No. 1155, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I'm in opposition to this measure. I'd like to thank the Judiciary Chair for putting back some of the more heinous crimes in the repeat offender status like electronic enticement of a child. This bill still leaves out other crimes that should also be included, mainly: robbery, unauthorized control of propelled motor vehicle, burglary, and property crimes that were left out.

"In my dealings as a police officer over the last 25 years, this is a stop-gap to the revolving door of people who go out, offend, go in, come back out, re-offend, and it's a constant cycle. It's a real pain for our local law enforcement having to deal with these individuals, and at some point we just need to lock them up and get them out of our society for a while so that we can help them, try to rehabilitate them, and change their career-criminal path. So I'd like to have you consider this while we're considering this measure. Thank you."

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1155, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REPEAT OFFENDERS," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Fontaine, Har, Pine, Thielen and Ward voting no.

At 4:42 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 141, HD 1  
H.B. No. 108, HD 1  
H.B. No. 1112, HD 1  
H.B. No. 242, HD 1  
H.B. No. 1244, HD 1  
H.B. No. 1155, HD 1

**H.B. No. 805:**

Representative B. Oshiro moved that H.B. No. 805, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, brief comments in opposition, please. Mr. Speaker, I've long contended that Hawaii has lived off of its good looks for too long and we've got to start using our brains. This is a bill that encourages Hawaii to use its brain through the high-technology industry. But yet it's a

discouragement because we're going to take away the incentives by taking away the tax credit. Thank you."

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

"On HB 805, Stand. Com. Rep. No. 655, I'm in strong support of this bill. This is a remnant of the Act 221 experience. We can no longer afford this credit so it's timely that we get rid of it right now. Thank you."

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

"Mr. Speaker, in strong support. The Department of Taxation supports the repeal of this generous exemption for qualified high-technology businesses. Businesses that are profitable and can pay dividends should also be responsible for paying tax on those profits.

"In addition, the Department points out that the definition of a qualified high-technology business that would apply, does not require that these businesses have any percentage of their activities in Hawaii. In other words, they could be foreign or out of state. The revenue impact of this bill is approximately \$2.5 million. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 805, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Thielen and Ward voting no.

#### **H.B. No. 793:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 793, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Ward voting no.

#### **H.B. No. 1252, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1252, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT FACILITIES," passed Third Reading by a vote of 51 ayes.

#### **H.B. No. 1626, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1626, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUEL TAXES," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Ching, Choy, Har, Johanson, Nakashima, Pine and Riviere voting no.

#### **H.B. No. 562, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 562, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE MONEYS," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Ching, Johanson, Pine and Riviere voting no.

#### **H.B. No. 794, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 794, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 41 ayes to 10 noes, with Representatives Brower, Ching, Fontaine, Hashem, Marumoto, Nishimoto, Pine, Riviere, Thielen and Ward voting no.

At 4:44 o'clock p.m. Representative Pine requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:48 o'clock p.m.

At 4:51 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 805  
H.B. No. 793  
H.B. No. 1252, HD 1  
H.B. No. 1626, HD 1  
H.B. No. 562, HD 1  
H.B. No. 794, HD 1

#### **H.B. No. 808, HD 1:**

Representative B. Oshiro moved that H.B. No. 808, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to cast a no vote and say a few words. Thank you. Yes, it's another of the three measures that Sierra Club is opposing. And they have very good reasons for doing this. The Land Conservation Fund preserves our pristine environmentally sensitive lands.

"There's not a huge amount of money in that Fund so it's not really going to help the general fund that much by putting that money there, but what it does do is it would allow us in a time when real estate is somewhat in a depressed state, we could be able to acquire some of these sensitive lands. We're not at the height like we were at other times. We're at a time when some landowners would be willing to sell at a reduced rate. So the money should stay in that Fund so we can acquire those lands. Thank you."

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

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, I have grave concerns regarding the temporary suspension of the Conveyance Tax to the Land Conservation Fund. This Fund allows for the purchase and preservation of valuable and significant property throughout the State and represents a small investment in the future preservation of these valuable land resources."

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

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 808, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Brower, Ching, C. Lee, Riviere, Takumi, Thielen and Wooley voting no.

#### **H.B. No. 840, HD 1:**

Representative B. Oshiro moved that H.B. No. 840, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I would like a ruling on a potential conflict. I'm an importer of wine," and the Chair ruled, "no conflict."

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

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

"Mr. Speaker, in opposition and just a few comments. Mr. Speaker, what this bill does is it increases the liquor rate by 20%. It reduces the liquor tax rate on the first 60,000 barrels produced in a small brewery, but many of the breweries said that the increase of the liquor tax by 20% would more than hurt their business.

"Mr. Speaker, I don't drink that much, but I do know that our top income part of our economy is the tourism industry. And within the tourism industry you have many hotels, and you have many restaurants and bars. And part of the tourism industry takes part in drinking alcohol. People are on vacation and they want to have a beer or two. But a lot of people that are coming here are like many other places around the world and especially in America. They still want to go on vacations, but they have less money to spend. And we are so grateful that they're still coming here, but they're spending less.

"What this would do in my opinion is it would hurt the tourism industry. Sure they'll pay the extra 20% tax, but that means they now have less money to mainly go down the street to the ABC Store, or even go to a restaurant and instead they might go to a Foodland and buy their beer there instead of at the restaurant. And that would then lower the sales of the restaurant. That would mean that the restaurant will have to lay off workers. And so there is a big trickle effect that will happen with this increase of this tax."

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I would like to rise in opposition to this measure. As I've stated on other measures before us today, I recognize the fiscal situation our State is in and I understand it our duty as legislators to look for solutions to reduce our budget gap. However, this particular tax will disproportionately affect many of our local businesses, including restaurants and establishments that are a critical sector of our tourism industry. I also worry that we establish negative precedents for our economy in general by targeting specific industries for tax increases.

"As Hawaii seeks to achieve not only economic recovery, but also economic growth, we must be careful not to pursue tax increases that compromise those ends."

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

"Thank you, Mr. Speaker. On the same measure, I stand in support. I would like to have the Members look at the increases that the Finance Committee did. For instance, on per wine gallon on draft beer, it goes from 53 cents, to 54 cents. One penny. And from 92 cents, to 93 cents per wine gallon on beer. So I think the Finance Committee did a good job on trying to balance the concerns of the industry with the deficit situation.

"Also I would like to note that by including Part II which is adopted from Alaska and 15 other states, we're providing our local companies with the ability to be able to produce, grow, and expand and become price competitive with mainland imports.

"So again, this is one of the many measures that we're moving forward to address the budget deficit situation, but I think what the Finance Committee did was to be very prudent with the increases. And by keeping Part II, they are going to support our local industry so they can be competitive with mainland imports. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in support. I would like the words from the Representative from Lahaina as my own. And I also note that this could end up definitely being price competitive because there are a lot of different brands of alcohol, different ranges of prices. I think that people that want to drink, maybe they'll buy a cheaper brand. But maybe in the end, they will make it competitive. I do not believe this will stop people from buying alcohol when they're on vacation. Thank you."

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

"Thank you, Mr. Speaker. In strong support. The interesting thing about industry trends, and this is in support and rebuttal too. Tourism trends are, when we had our COR briefing, the economists were so proud that the trend in tourism which is showing a great increase right now, was predicted in 2007. So they predicted our downfall, and they predicted our upturn.

"Now you know if in 2008 and 2009 we raised the TAT. That increase in TAT had nothing to do with the tourism trend. I believe this increase in liquor taxes with have no effect on tourism. Thank you."

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

"Thank you. I just wanted to rise in support very briefly and follow up with comments from the Representative from Maui. There are a lot of exaggerated numbers that have been floating around regarding this bill in Finance Committee. We heard testimony that the \$3.00 increase on a gallon of wine would lead retailers to increase the same gallon by \$97, which is a bit ridiculous and cannot really be substantiated. So read the bill and focus on the facts. Thank you, very much."

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

"Mr. Speaker, in opposition. Just a brief historical note. It's widely known that during the depression in the '30s the two businesses that thrived were taverns and movie theaters. Taverns because people wanted to drown their sorrows. I mean, it's already ten bucks for a glass of wine in Waikiki. What is this going to do? It's not that the people are sad in Waikiki, but there are people who are sad who've lost their jobs in Hawaii. And I'm not saying we're going to repeat what was in the '30s, but the point is this is not a time for those who are down, to jump on top of them. That's the point. Thank you."

Representative Pine rose to respond, stating:

"Yes, just in rebuttal, Mr. Speaker. Because I did read the bill very thoroughly and I have been analyzing our tourism numbers. I do analyze a lot of pieces of legislation and their effects when we do raise taxes. And many economists will say that when you do raise taxes, people will spend less on a particular product because they only have so much disposable income to spend. That is a given fact.

"If I make \$10 a day, you can increase all the taxes you want. But I can only spend \$10 a day. You're just sticking it to me a little more, and taking more for yourself. I don't believe there's any economist that will say that raising taxes on any parts of the tourism industry is not going to have an effect on jobs, especially if people are spending less and then restaurants will have to lay off people. This tax does affect them, Mr. Speaker."

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

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

"Mr. Speaker, I rise in support of HB 840 HD1 regarding liquor. The purpose of this bill is to increase liquor tax rates, and reduce the liquor tax rate on the first sixty thousand barrels produced in a small brewer or brewpub.

"The tax on alcoholic beverages is part of a plan to balance the budget which is reasonable and serves a dual purpose of decreasing consumption in some areas, as well as producing revenue. The Finance Committee



amended the original bill by increasing the various liquor tax rates, and by changing the proposed increase on various liquor taxes from 50% to 20%.

"This will be an important addition to our efforts to restore some vital government functions."

The motion was put to vote by the Chair and carried, and H.B. No. 840, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Brower, Fontaine, Johanson, Marumoto, Pine and Ward voting no.

**H.B. No. 564, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 564, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 51 ayes.

**H.B. No. 795, HD 1:**

Representative B. Oshiro moved that H.B. No. 795, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Yes, Mr. Speaker. I'm opposed to this measure. I can speak for Maui County. We rely on the Transient Accommodations Tax to fund all of our special services and projects and I'm sure that's the case in the other counties as well. I think that if there is additional tax that is taken, that those counties should be able to enjoy that additional funding to be able to bring back some of the services that have been cut back.

"Our only other option is to start raising property taxes in my county and that would be devastating for the people who live there. So I'm opposed to this. Thank you."

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

"Thank you very much, Mr. Speaker. I stand in support but I do have reservations. The reason why I'm standing with reservations and I'm not opposed to this is because this is not a raid, and I will fight tooth and nail to oppose a raid. However, I think this is a fair compromise to move the discussion forward on capping the TAT distribution at 2010 levels, and then any excess would go back to the State.

"The issues the counties have had with a raid, besides what the Representative from South Maui has talked about, the biggest reason is it blows a hole in their own budget-making process. If by capping it at 2010 levels they know how much money they have, then that gives them the ability to move forward on their budget.

"I'll wait to see how this progresses. However I think one of the unintended possible beneficial consequences of this measure is this would incentivize Hawaii Tourism Authority to market the Neighbor Islands more aggressively so they can increase the TAT income to the Neighbor Islands which will then in turn help the State as far as marketing goes and other issues. Thank you, very much."

The motion was put to vote by the Chair and carried, and H.B. No. 795, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Belatti, Fontaine and Pine voting no.

**H.B. No. 1267, HD 1:**

Representative B. Oshiro moved that H.B. No. 1267, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you. I'm rising to speak against the bill, Mr. Speaker. This bill will take the Tobacco Settlement Funds away from tobacco prevention. I'm not sure and I would think Members would be aware, but maybe they aren't, that in the last decade because of using these settlement funds for tobacco prevention, that we've had a 50% reduction in teen smoking. That's huge. That's just huge and it's a dramatic figure. It means that the teens are more healthy and they aren't addicted to tobacco products.

"The other thing is that we have one of the lowest adult smoking rates in the nation. Those are things of which to be proud. What we are fighting is a big tobacco industry though, and they spend about \$42 million a year in Hawaii trying to get our kids to smoke and trying to get adults to smoke.

"So if we don't have the tobacco prevention money in there working to go against that tobacco industry, we're going to really fall back and you're going to see youngsters smoking again and adults getting hooked on it too. Thank you."

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

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

"May I have a ruling on a potential conflict. At my law firm I do legal work for the Coalition for Tobacco Free Hawaii," and the Chair ruled, "no conflict."

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

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

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

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

Representative Takai's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure. The intent of this bill is to divert funds currently targeted for tobacco prevention, control and cessation programs to cover Medicaid costs to the State. The end result, however, would be a likely increase in Medicaid costs to the State due to increases in tobacco-related illnesses and lost productivity.

"It would, in effect, be mortgaging the future health of the State and leaving taxpayers to cover future tobacco-related costs (which now total over a half-billion dollars per year) instead of remaining committed to reducing those costs.

"It would also likely result in burdening Hawaii taxpayers by further subsidizing the profits of the tobacco industry. The limited funds that the State currently invests in health, and in preventing unhealthy lifestyles, pay off in enormous returns in savings to the State.

"According to a study done by Penn State last year, the annual direct costs to Hawaii's economy attributable to smoking alone are estimated to be in excess of \$1.1 billion, including workplace productivity losses of \$215 million, premature death losses of \$449 million, and direct medical expenditures of \$444 million.

"The Centers for Disease Prevention and Control estimates that in Hawaii, 62% of those on Medicaid smoke. Tobacco still remains Hawai'i still has over 150,000 adult smokers throughout the State.

"And more than 1,000 Hawai'i youth become daily smokers each year. Smoking costs us an estimated \$336 million dollars per year in smoking-related health care costs, \$117 million of which is attributed to Medicaid.

"This is despite the enormous progress the State's tobacco prevention, control and cessation programs have made since the inception of the special fund in reducing teen smoking by half to less than 10%, and reducing adult smoking from approximately 25% to approximately 15%.

"Unfortunately, even if proposed funding cuts to these prevention programs were to be eventually restored when the economy improves, it would take years to restore the infrastructure of programs that have been created to address these vital health issues.

"Tobacco use remains the leading preventable cause of death in our State and in the country, and a leading risk factor for heart disease and stroke.

"The U.S. Centers for Disease Control (CDC) recommends that Hawaii needs to invest a minimum of \$15.2 million each year to fund a fully effective, comprehensive tobacco control program.

"The most that Hawaii has invested since the Tobacco Prevention and Control Trust Fund was established was approximately \$8 million.

With the passage of the bill to create the Tobacco Fund in 1999, this Body made the decision to save lives, save money and improve overall public health. The bill would have a positive impact on every resident of Hawaii, especially our children.

At the time, Hawaii was poised to become one of only five states to make a commitment to fund tobacco prevention programs beyond a minimal level, placing itself on the map as one of the National's leaders in terms of public health and education.

*Representative Takai, House Journal 1999*

"At the same time, according to the Federal Trade Commission, the tobacco companies spend approximately \$42 million each year toward marketing and advertising their deadly products in Hawaii to addict another generation of nicotine users.

"Allocations to the Tobacco Prevention and Control Trust Fund were halved from 25% of annual Tobacco Settlement Funds received by Hawaii to only 12% in 2001 following the 9/11 attacks to pay for construction of the new University of Hawaii medical school.

"At that time, the intent was to build the medical school and then return any moneys in excess of that needed for the construction to the Tobacco Settlement Fund, with the returned funds being allocated 80% to the "rainy day fund" and 20% to the "Tobacco Prevention Fund."

"Since then, allocations to the Trust Fund were cut in half again so that currently only 6% of the Settlement Funds actually fund tobacco prevention, cessation and control programs.

"The Tobacco Fund was never designed to be used as an emergency and budget reserve fund. I would like to remind this Body of the words of Health Chair Alex Santiago back in 1999 regarding the creation of the Tobacco Fund:

Mr. Speaker, if all goes as planned, someday when we look back on all the issues and measures I have had the privilege of being involved with, this measure, I believe, will be one of those I will remember as being significant and very important with the resulting efforts to many individuals. I want to thank you Mr. Speaker, for giving me this opportunity to manage and be involved with this measure.

*Representative Santiago, House Journal 1999*

"The structure of the Master Settlement Agreement payments from the tobacco industry to the State is based on national smoking rates.

"As smokers die, and tobacco-control efforts continue to successfully wean current tobacco users off their addiction and prevent new smokers

from starting, payments from the industry to the State will drop, thus making those payments an unstable source of operating income for the state.

"Tobacco settlement funds should be used to help those who are affected directly by tobacco addiction and tobacco industry marketing. The work of tobacco-dependence treatment and prevention programs is not over. Thank you."

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

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

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

"Mr. Speaker, I rise in support of HB 1267 regarding health care. This bill, as amended, redirects for 2 fiscal years the portion of Tobacco Settlement Fund monies from the Emergency and Budget Reserve Fund and the Tobacco Prevention and Control Trust Fund to the General Fund.

"It also transfers \$25 million from the Tobacco Prevention and Control Trust Fund to the General Fund.

"Through these actions proper funding of costs associated with Medicaid and other health services will be accomplished. The bill also provides funds for healthcare infrastructure (on line medical records) and preschool open doors, court substance abuse programs, matching funds for the Federal disproportionate share and funds for Kupuna Care.

"Although the Tobacco funds are being transferred, and there are concerns related to untraditional uses, our financial situation requires flexibility. \$30 million remains in the coffers of the Hawaii Community Foundation and these monies would be well used if directed towards prevention programs."

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

Representative Chong's written remarks are as follows:

"Mr. Speaker, I stand in support. This bill helps to ensure core services such as Medicaid, education, *kupuna* care, State hospitals and other programs. I agree that the tobacco programs presently funded are important. This bill does end those programs. It ensures that we can keep our core health and human service programs. Mahalo."

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 House Bill No. 1267, House Draft 1, Relating to Health Care.

"This bill appropriates funds to ensure the continuance of vital health programs and core services to meet the needs of the public. This bill also assists the Legislature's efforts to balance the budget by making targeted appropriations to redirect into the general fund.

"I support the intent and purpose of the bill as a critical optimization of funds. During these times of economic hardship, the ability to maintain core programs while being fiscally far-sighted calls for creative thinking and problem-solving; this bill does both.

"Based on projected distribution of funds from the Hawaii Tobacco Master Settlement Agreement, this bill will redirect an estimated \$20.2M into the general fund for FY12 & FY13. This bill further assists our efforts by appropriating \$25M of the Hawaii Tobacco Prevention & Control Trust Fund to be deposited to the credit of the general fund. Such shifts are critical as we stare down a \$988M budget deficit.

"Though we face tough economic times, we must lead the State of Hawaii toward a successful future, and to do so is to focus on the most essential sectors and services affecting our people. I appreciate this opportunity to expound on the ways this bill supports core services in the areas of health, education, higher education, and human services.

"Over the years, Hawaii's healthcare costs have ascended to unfathomable levels. As a result, hospitals with high Medicaid levels and high charity care suffer significant financial losses. This year, Hawaii Health Systems Corporation reported that Medicaid/QUEST payments to its member hospitals on average cover only 59% of the care and services delivered, which thus translated to an approximate loss of \$47.1M in fiscal year 2010. Other hospitals have reported similarly significant losses.

"To meet major healthcare needs, this bill temporarily repurposes \$10M of the Hawaii Tobacco Settlement Special Fund to address rising Medicaid costs. This bill also supports the efforts of Hawaii Health Systems Corporation and its member hospitals with \$5M of the Tobacco Trust Fund dedicated to covering comprehensive healthcare costs. By providing these new funding options, the State of Hawaii proves its dedication to addressing health disparities statewide and maintaining access to care for our populations of greatest need.

"The impact of this bill is further bolstered by making a critical appropriation to match and release the federal disproportionate share hospital allowance allocated to the State. Without this matching appropriation, the State will miss an opportunity to garner federal funding needed to provide health care to our people.

"This bill also supports Hawaii's current and future health needs by maintaining the appropriation made for the John A. Burns School of Medicine. In addition to addressing Hawaii's current shortage of 644 physicians and a projected shortage of 1,200 physicians, this bill also gives credence to the importance of higher education and professional training in our islands.

"Furthering this bill's impact on our education system is a general revenue appropriation made for the Preschool Open Doors Program, which prepares students for Kindergarten by teaching social and cognitive skills. With priority given to high-need children not enrolled by the DOE for preschool, this program is an essential launch pad for life.

"Mr. Speaker, the Department of Human Services has the honorable task of providing core services and programs to our people. This bill will assist the Department's efforts by appropriating funds for the revitalization and implementation of important systems, including an electronic health records program. In this digital age, these systematic changes are critical for the efficacy of the Department.

"Lastly, this bill appropriates funding for Kupuna Care, a program which provides our kupuna various services needed to remain in the community and to live a dignified life. With a substantial aging population, it behooves us to fund Kupuna Care not only for the sake of taking care of our elderly, but for the estimated \$1.4B of medical costs saved due to the program.

"Mr. Speaker, as your Finance Chair, I understand that these dynamic fiscal shifts may be unpalatable to special interest groups and organizations focused on the acquisition of funding to fulfill just that: special interests. I send a gentle reminder that our most important interest must always be with the people of Hawaii.

"For these aforementioned reasons, I stand in support of this measure."

The motion was put to vote by the Chair and carried, and H.B. No. 1267, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Rhoads, Takai, Takumi and Thielen voting no.

At 5:09 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 808, HD 1

H.B. No. 840, HD 1  
H.B. No. 564, HD 1  
H.B. No. 795, HD 1  
H.B. No. 1267, HD 1

**H.B. No. 1270, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1270, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

**H.B. No. 575, HD 1:**

Representative B. Oshiro moved that H.B. No. 575, HD 1, pass Third Reading, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and H.B. No. 575, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Souki voting no.

**H.B. No. 853, HD 1:**

Representative B. Oshiro moved that H.B. No. 853, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with consternation and reservations. This bill has come a long way. It has gone from being a state bank with our Governor as the chairman of the board and with his political appointees as the board of directors, where now it is a task force and I'm very pleased that it has changed. And I should admit I've come a long way because I voted no with reservations in the Finance Committee, and I'm speaking now with just reservations.

"The problem I have with the bill is that first, our brothers in North Dakota, that is our role model who 99 years ago set up a state bank, and now we 99 years later we see that as something we can emulate. But, Mr. Speaker, as I indicated earlier, let's look at the track record.

"How have we done as an entrepreneurial state? We have 13 hospitals which we run. We are the CEO. We are the ones who run this. And Mr. Speaker, as we all know, we lose about \$50 million a year. I mentioned earlier the Aloha Tower, which is in deep trouble. HCDC I don't think, is a cash cow.

"So what makes us think that we will be able to, number one get into this, and then again make any money? And I know that's the reasons why we have a task force. But I would ask this Body to remember that even though it's getting late, that earlier today we had a bill. It was HB No. 1284 and the Chair of Finance said the exact reason why we need a state bank is because of the agricultural loans. That was exactly the reason why the Chairman of Agriculture came to the Finance Committee and said we have farmers who need money, and that's why we passed the bill earlier to give more money, less expensive and more, without barriers for our farmers.

"So Mr. Speaker, I would ask the Committees as this goes along to remember, it's all about farmers. And to remember, I don't see any shortage of banks here. I don't see any shortage of loans here. I do see a shortage of farmers and that maybe more of the problem than trying to get into the state banking business.

"So for those following reasons, and out of respect of my colleague who heads the Finance Committee and does a very good job, I hope he will see my comments as iron sharpens iron. Iron sharpens iron, as his criticism of

me and then my of him will make this hopefully, a better bill. And in the end it will not put us in the banking business. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. With strong reservations. I don't believe the State of Hawaii is in a financial position to have its own bank. We need to take care of our own basic needs first before we look to going into banking. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in strong support. I think the idea behind this task force is to do our due diligence to explore the possibilities that might be available in setting up a bank similar to the Bank of North Dakota. It's been around for about 100 years. And the genesis of that bank was to address the needs of the local small businesses when they could not receive financing from the East Coast bankers or robber barons of those days.

"In North Dakota, all the state funds, as well as the funds administered by the state and county agencies are deposited with the Bank of North Dakota, thus creating a large deposit base. In addition to paying competitive interest rates, the state treasurer, the Bank of North Dakota, also invests its money in loan programs to spur economic development within the state.

"The Bank of North Dakota also regularly returns over a portion of its profits to the state general funds. There are no shareholders. The shareholders in fact are the taxpayers of the State of North Dakota, and we'll do a similar thing in Hawaii.

"Over the past decade the bank has turned over approximately one third of a billion dollars to the state general fund. And despite the recent financial crisis that affected all of the nationalized banks, the Bank of North Dakota earned record profits in 2008 with net earnings of approximately \$57 million.

"Rather than competing with private banks, the Bank of North Dakota has in fact created partnerships with over 100 other local banks. The Legislature should look at this as an economic development tool to provide gap financing for community development, housing, or industry, whether it's in the farming area or in the high-tech area. This can go a long way. I have some further comments, Mr. Speaker. I ask for permission to insert them into the Journal. Thank you."

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

"Mr. Speaker, I rise in strong support of House Bill No. 853, House Draft 1, relating to the bank of the State of Hawaii.

"This bill would create a two-year task force on establishing the bank of the State of Hawaii. This task force would examine the issue of a state-owned bank, looking at the model of the Bank of North Dakota, a nearly 100-year old state-owned bank.

"The Bank of North Dakota was founded in 1919 with \$2 million in capital. Today, the bank operates with more than \$270 million in capital, while regularly turning over a portion of its profits to the state general fund. Over the past decade, the bank has turned over approximately one-third of \$1 billion to the state general fund, and despite the recent financial crisis, the bank earned record profits in 2008, with net earnings of approximately \$57 million. With the help of the Bank of North Dakota, the State of North Dakota not only survived the recession—it is currently one of the only states in the nation that is operating with a surplus, rather than a deficit.

"The impressive track record of the Bank of North Dakota has not gone unnoticed in an America still struggling with the after-effects of the recession. No fewer than seven states across the country, including Hawaii, have introduced legislation to explore the question of state banks.

"The economic recession afforded us a look at the way our banking and economic work and how much they need our attention and support. Our farmers and small businesses, as well as our new and growing industries such as high technology, are still struggling during this gradual recovery. We, as a body, have an obligation to find a way to try to prevent this level of negative impact on our community in the future or at least mitigate the damage from any future recessions.

"As such, we must begin to look for other avenues to grow our economy. We must be willing to examine proven models from other communities that have helped to stabilize and protect their economies. We must be willing to look at how progressive ideas like a state-owned bank can promote agriculture, education, community development, economic development, housing, and industry.

"This House Bill No. 853, House Draft 1, creates the task force on establishing the bank of the State of Hawaii. This uncompensated task force consists of ten individuals from a wide range of sectors, both public and private, to get input from the Legislature, the Administration, the Hawaii State Association of Counties, the banking and financial institutions, and the credit unions. Getting information from all sides is imperative to furthering this discussion, so that everyone can better understand the wide range of concerns and suggestions with regard to this idea.

"This task force will review, evaluate, and create an implementation plan for the bank of the State of Hawaii. However, this plan will not be created or implemented without us doing our due diligence. This task force will fully investigate the model of the Bank of North Dakota and will look at the feasibility of a state-owned bank for Hawaii. In addition, this task force will look closely at what the short and long-term impacts of a state-owned bank on job creation and the State revenue. This task force will also look at the details of the how a state-owned bank in Hawaii would be run, including looking at the standards this bank would need to meet.

"This two-year task force will provide a close and thorough look at what a state-owned bank can do for Hawaii and how we can best implement a fiscally responsible and economically sound state-owned bank. This task force will provide a deliberate and careful study of the issue at hand because we want to be sure that we are taking the best steps for the fiscal and economic health of our State.

"We must do everything we can to grow our State and protect it. As such, we must be willing to at least discuss and study new ideas as we find them. There is no danger in a study—a study is, rather, a responsible way to begin a discussion about a new idea. Let us take this opportunity to open the door for continued discussion about state-owned banks and growing our economy in new and innovative ways.

"Thank you, Mr. Speaker, for this opportunity to insert written comments."

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, the Chair of Finance entered into the record as if they were my own? And here's the thing, if I may give a little anecdotal story.

"Earlier this Session, along with the Senate, we had a working group, an informal one established, to look at business initiatives. Among the attendees was the Chamber of Commerce and all of their members. At the first meeting, the first thing that all of them wanted was us to look at bringing back the DBEDT Capital Loan Program for small business. So I asked them what was the impetus of the members asking for this and what they said was, 'We cannot get loans right now from the banking institutions, period. There's no place for us to go.'

"So I support this bill because I think it's worthy to have a task force look at North Dakota to see if we can create a bank that will work in cooperation with our local banks. And North Dakota Bank has actually been called a banker's bank because they work with the local banks.

"But there might be many situations, if this task force does its due diligence, where in the future a local institution may not feel comfortable lending to a small business, but perhaps the State Bank of Hawaii would be. And they would work with the local banks to try and make this possible. Because at the end of the day, they might be in a better position to extend these loans to this small business than perhaps a commercial bank would be willing to take.

"So I think that alone warrants us and this task force just to look at this, to see if this is something we can develop. Because the business community, and we have a bill like this moving forward for the Small Business Capital Loan Program to bring it back, is clamoring for us to look at some ways to provide alternate means of financing for businesses that just aren't, for some reason, making the cut when it comes to trying to get financing from institutions. Thank you."

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

"Yes, with respect to the Finance Chair, I also will be voting in opposition to this. A capital loan program and an entire bank are two different things. Mr. Speaker, by all of our actions today, we said very loudly and clearly that we can't balance our budget on the money that is coming in to us. So what do we do to balance our budget? We tax people more. We raise their fees. Then we raided funds that were suppose to go to other things. Therefore, Mr. Speaker, I do not believe we have the capability as a government to now have a bank.

"Business is very different from government. Businesses, they have to balance their books or they go out of business. Banks are businesses. For us to have a bank through government, we have to prove that we could run ourselves like a business or else we will run ourselves into the ground.

"I would wholeheartedly support a bank, a task force, anything of that nature if we can prove that we can actually balance our own budget the way banks do."

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

"Mr. Speaker, in support. Considering the record of the banks over the last couple of years, I would say the banks don't know how to run banks either. And they generally come to us to bail them out after they've wasted all their own money. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, still with reservations. A brief retort and I think for full disclosure for the Finance Chair, and now the Labor Chair, guess what? The bank model of North Dakota has no FDIC insurance base. The feds don't touch these banks so who guarantees that the bank works? We do. Taxpayers. You think taxpayers want to give us the risk to do that? I don't think so. So that's up to \$250,000 that the FDIC insures individual accounts.

"Secondly, related to the gentleman from Maui saying, 'Hey we've run out of money. We can't get out money.' He cites one of the worst loan programs that ever existed in the State of Hawaii, the DBEDT loan program. You talk to anybody about how successful that was. Why did we basically pull the plug on it, or choke it and let it die slowly over the last two decades or last 15 years? Because it was cumbersome. It was government run. It was for boats, and then it was this, and that, and depending on who politically was up at the head of the government and what they wanted to do with those programs. It changed back, left, right, front and center. So the citation of North Dakota and DBEDT is a rather dismal one.

"And thirdly, the SBA, the Small Business Administration, they have a loan program that has given out billions of dollars to the small business of the State of Hawaii. Thank you, Mr. Speaker. I used to be one of their consultants to do business plans for them. Billions of dollars. And let's face it. We have gone cyclically from a very loose and easy capital, loose and easy loans, to where now it's very hard and very long to get small business loans. But there's no shortage of money. It's a matter of going through this

cycle which in a matter of months, by the time the task force finishes, the SBA will be up and running with all the banks which basically processes that in the private sector.

"The point is the private sector knows how to do this. They know how to do it better. And what we as the political class if you will, should stay out of it. And quite frankly when the gentleman said that the banks didn't know what they were doing, it's because we said from the political pulpit that we want everybody to own homes and you guys make sure it happens.

"So we cooked and then we pushed the playing field in a little bit different direction. We are as culpable of that crisis that took place in 2008. Liar loans, and all of those things that we've talked about which now we're going to do with foreclosures because we said we want everybody to own a home regardless of their income. Let them lie. Let this stuff go through. And we didn't monitor it.

"So it's coming back to bite us just the way a lot of these bills today that we have passed. And this is one of those. But again, I say with reservations and hopefully iron will sharpen iron, and this will come out as a good tool. Thank you."

Representative Pine rose to respond, stating:

"Yes, just in rebuttal to my favorite Representative from Chinatown. I actually agree with him. Those banks that government bailed out can't balance their budget. And you know what? Government should never have bailed them out because it proved that they shouldn't be in business. Instead what our congressional leaders did was they sold out our future so that China can own us, because they do. We took out loans to bail businesses out that should no longer be in business."

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

"Yes, Mr. Speaker, I rise with reservations. It's reservations because it is only a task force at this point, but just to kind of dovetail on the remarks that the Representative of Hawaii Kai made. You know, one of the reasons why the banks would be happy with this is because if the State stepped in, we would assume the risk. One of the reasons why banks don't give loans to certain businesses is because of the risk factor. For example, starting a restaurant is an extremely risky proposition. Many of them fail for example. If the State stepped in and bankrolled and assumed that risk so the bank could then make that loan and partner with them, it could have devastating effects, trickle down devastating effects in terms of us buying in, as a government, into risky loans. So that's why I'm in reservations. Thank you."

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

"Thank you, Mr. Speaker. I am in strong support and I'd like to adopt the words from the Chair of Finance, the Chair of Labor, and the Chair of Economic Revitalization as if they were my own. Thank you, Mr. Speaker."

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

"Again, with reservations, Mr. Speaker. But first, I want to disclose that I'm a Director of the Federal Land Bank and I ask for a ruling on a potential conflict of interest. I need to disclose that," and the Chair ruled, "no conflict."

Representative Souki continued, stating:

"Thank you, very much. And I can understand the frustration you have with banks. Certainly they have not had a good track record as my good friend, the Chair of Labor has said. And so there's some justification for looking into the possibility of a state bank. This a task force to look into the feasibility, and not just going to begin a bank.

"But I just want to give these words of caution. I'm not a banker, but I've been for over 15 years a member of the Board of Directors of Land Bank,

and I know how difficult it is to run a bank under federal regulations. There is every available regulation that you can think of. And I know how difficult it is to make loans and to pay the salaries and to come out with a surplus at the end of the year. It's not an easy job.

"And so with this, I put up this caution to the members of the commission. I know the Chairman of Finance is looking very rosy at this, and I hope it won't kill all my programs by speaking against him. Thank you, very much."

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

"Mr. Speaker, in support. This measure calls for, not approval or endorsement of a commercial bank, or a state bank here in Hawaii. It's saying that we should enlist a task force and I am sure that a task force would do all the due diligence, like any other applicant going for a commercial bank and going through the process. And that's how banks throughout the nation and even the State of Hawaii started. They look for public good and convenience, adequate capital, and what area can you serve in the community. And how you can serve the community. This is one of the areas I am very sensitive in.

"Three Sessions or so ago, I was elected to the State Legislature. And when I got into the Committee on Agriculture, I approached the Hawaii Banker's Association. I told them that we are going into an economic demise. I told the official also, that agriculture is in a state of rebound. But they cannot do it without help. They cannot do it without capital and they cannot do it with the financial institutions in Hawaii. Will you sit down with us here at the Legislature or have an informational briefing with the Committee on Agricultural, and they refused to.

"But going on and fast forward a couple of years later. Today, when a bank goes for an application, or any type of business, they will look for character, collateral, and the conditions of the community. Also for public good and convenience. And that's what all the banks here and financial institutions in the State of Hawaii do. Not haphazardly. One gentleman stated I believe about making high risk or risk loans, we'll take into consideration character, collateral, condition, and other factors.

"What this bill also states if I remember correctly, that any excess funds will go into the State coffers or the State general fund. But in short and in close, this starts out with a task force and I support that. Thank you, very much."

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

"I'm standing in support. I just think it's interesting that the Bank of North Dakota, the State Bank of North Dakota has contributed \$300 million to the economy of that state in the last decade. So that's pretty impressive.

"We're not the only state that is looking at the concept of a state bank. In fact Wisconsin is looking at it, and several western states. So I think anything we can look at that might increase our State's economic activity is a good thing. And I'll add some written comments to that. Thank you."

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

"Mr. Speaker, I rise in support of HB 853 regarding the Bank of the State of Hawaii. The purpose of this bill is to establish a task force to review, investigate, and study the feasibility and cost of establishing the Bank of the State of Hawaii.

"The creation of a State Bank would have some beneficial effects on the State's economy by making credit more available in the State, would add stability to the State banking industry particularly in times of recession, and could do this in a revenue positive way. A public bank would not be beholden to the profit-based agendas of private banks, thereby permitting the Bank of the State of Hawaii to leverage capital on a fractional basis without consideration for shareholder earnings or market expectations. The Bank of the State of Hawaii would be able to better engage in long-term planning based on available deposits and revenue forecasts.

"The Bank of North Dakota has been in existence for many years and during the past decade has directed more than \$300 million dollars back into the economy of the state. Although primarily functioning in agricultural loans, the bank's success has been noticed by several other states, including Wisconsin, Washington, and Oregon.

"In the times of austerity, we need to consider every possibility for economic advancement, and the proposed task force on a State Bank is just one option. I urge the Members' support."

Representative Keith-Agaran rose to speak in support of the measure, stating:

"Mr. Speaker, in support. And just briefly. It sounds from the discussion that we're having that a task force is completely appropriate to tell us whether this is a losing proposition or, Mr. Speaker, winning."

Representative McKelvey rose to respond, stating:

"Thank you, Mr. Speaker. Still in support and just a brief rebuttal to my good friend from Hawaii Kai. If he is so concerned with taxpayers being obligated under a financial system like this, then I would think that he would be voting against every special purpose revenue bond that is on the agenda today. Thank you"

The motion was put to vote by the Chair and carried, and H.B. No. 853, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BANK OF THE STATE OF HAWAII," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Marumoto and Pine voting no.

#### **H.B. No. 799, HD 1:**

Representative B. Oshiro moved that H.B. No. 799, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, can I request a ruling on a potential conflict, please? I represent subcontractors in my private sector life," and the Chair ruled, "no conflict."

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

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

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

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

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

Representative Choy's written remarks are as follows:

"Mr. Speaker, this Body has an insatiable appetite for giving tax exemptions and tax credits to various special interest groups. Most of these tax preferences are given without thought to the reason and required results of the preference. Let's face it; most of these preferences are just political pandering at its worst.

"The questions that must be asked are: Are we really helping these businesses? Are we really helping the people of Hawaii? For example, some of these exemptions are said to lower the cost of living in Hawaii, but how can we be sure that savings from these exemption are really being passed on to the consumer. How can a mere four percent reduction in the cost of airline fuel result in a reduced ticket price. It doesn't.

"Now, we have come to a time when we are giving away a billion dollars in tax credits and tax exemptions annually. That equals two full percentage points of the general excise tax. What would be more beneficial to the people of Hawaii: the perceived benefits promised by these companies who get the credits or a two percent General Excise Tax?"

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

Representative Johanson's written remarks are as follows:

"I rise with reservations on this bill. I would otherwise object to suspending some of the specific tax exemptions highlighted in this bill. However, I believe that the temporary suspension of these exemptions are preferable to completely unpalatable measures such as raising the general excise tax in order to fulfill our constitutionally-mandated duty of balancing our State budget. I appreciate the end date of 2015 added to the text of this bill.

"Although I have significant reservations about this particular measure, I do believe it is less regressive and broad-based than an across-the-board tax increase that would place significant burden on all of our constituents."

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

"Maybe I should ask for a ruling on a potential conflict of interest. I'm a Neighbor Islander," and the Chair ruled, "no conflict."

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

"Yes, Mr. Speaker. I wish to speak with reservations. I do understand that we need the funds to balance the budget so of course I am not voting no on this, and we'll watch how it plays out in the end. But the big concern I have, the fact is that Hawaiian Airlines is going to be on this plan here which is going to cost them approximately, they're going to lose approximately \$52 or \$53 million for the biennium. And with the cost of fuel going up, and I know how expensive travel is right now for the Neighbor Islanders. If you think this is expensive, just wait a little while.

"So I would hope that in the course of the Conference when they're going through this, that there might be other areas maybe you can look at. I won't get into that now, but you certainly should look at this area again very cautiously because it's going to be affecting a lot of people. And not only the airlines, but other businesses. Thank you."

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

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

"Thank you, Mr. Speaker. In support. I understand some of the concerns that have been brought up regarding this bill. However, this bill is clearly part of our financial plan to ensure core services.

"But secondly and just as important is this issue is about fairness. And while the speaker from Maui has talked about the concern for, as one example, Hawaiian Airlines, you could look at it as instead of a \$52 million hit, that we've been giving them a \$52 million worth of tax credits each year. And that many businesses both big and small presently pay the general excise tax. They are not on the exemption list. They don't get a thousand dollars, or tens of millions of dollars in exemptions. And I think this bill is important as I stated, for both revenue and fairness. Thank you."

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

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

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

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

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

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

"Mr. Speaker, I rise in support of HB 799 HD1 regarding taxation. The purpose of this bill is to temporarily suspend the exemptions from the general excise tax for certain persons and certain amounts of gross income or proceeds.

"Some corporations and organizations have had the luxury of a tax exempt status for years, while other small businesses do not have this benefit and have struggled to find ways to make ends meet in this challenging economy. This is neither fair nor justifiable. Therefore, the existing exemptions for a number of corporations and organizations will be subject to a graduated assessment rate for the general excise tax and use taxes. The rates will be as follows:

2% from January 1, 2012 to December 31, 2012  
3% from January 1, 2013 to December 31, 2012; and  
4% from January 1, 2014 to December 31, 2014

"The relatively large amount of revenue gained from this measure constitutes a substantial portion of the House Financial Plan for the next 2 years.

"Fairness is the issue here, and it is time for everyone to pitch in to help out our state in its time of need."

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

"I rise in support. Just a couple of points, Mr. Speaker. Number one, this measure temporarily suspends the exemption from the general excise tax and use tax for certain amounts of gross income of proceeds, and requires that these amounts be assessed a rate of 2% from January 1st, 2012 to December 31st, 2012. Then 3% from January 1, 2013 to December 31st, 2013. And 4% from January 1st, 2014 to June 30, 2015.

"The Department of Taxation estimates the revenue gain at \$55.7 million for fiscal year 2012, and \$162.8 million for fiscal year 2013. And finally, Mr. Speaker, the measure sunsets on June 30, 2015. Thank you."

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

"Mr. Speaker, thank you. I rise with reservations. Actually I was going to vote no, but after the Finance Chair mentioned some things, I'm going to stay with reservations for now. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 799, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Marumoto and Ward voting no.

#### **H.B. No. 306, HD 1:**

Representative B. Oshiro moved that H.B. No. 306, HD 1, pass Third Reading, seconded by Representative Evans.

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

"With reservations and a comment, please. My reservation is with Section 8 of the bill which will repeal the tax credits for resident taxpayers. I believe this could be considered unconstitutional under double taxation. I

also believe it could be disproportionate for military filers also. Thank you."

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

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise with reservations. I understand that many of the measures outlined in this bill were made with our State's fiscal state in mind and in a good faith effort to clarify existing tax laws and computation methods. However, I do have concerns with some of these taxes in general, mainly the amended estate tax."

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

Representative Chong's written remarks are as follows:

"Mr. Speaker, I am in support. This bill seeks to address the shortfall in the section of the foreign tax credit. The issue is to look at whether or not some filers are claiming both the credit and taking the itemized deduction, and thereby double dipping. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 306, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fontaine, Pine and Ward voting no.

At 5:37 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1270, HD 1  
H.B. No. 575, HD 1  
H.B. No. 853, HD 1  
H.B. No. 799, HD 1  
H.B. No. 306, HD 1

#### **H.B. No. 1092, HD 1:**

Representative B. Oshiro moved that H.B. No. 1092, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support with strong reservations. I understand that this measure is a part of the Governor's package in addressing our \$800,000,000 shortfall over the next two years, but I also feel it is an additional burden on our senior population. The House proposal did raise the threshold levels, for example from \$75,000 to \$200,000 AGI filing jointly, but I am still concerned that these amounts are too low.

"One of the fundamental principles of taxation policy is the balanced treatment of different types of income. I acknowledge the need to include pension income in some form of tax scheme as a matter of evenhandedness, as other types of retirement income like 401(k)s are currently taxed. I would suggest, however, that in these difficult economic times we consider raising the thresholds so that fewer families will be impacted. Thank you for the opportunity to speak with strong reservations."

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

"Thank you, Mr. Speaker. I am opposed to this bill regarding taxing pensions.

"When I spoke on this measure a couple weeks ago, my comment was that this bill in its original form, and the \$37,500 threshold at which it proposed to begin the tax was too low, almost cruel. At the time, I was referencing the low threshold, and one of my concerns with this bill as currently drafted is that while the threshold is now higher, \$100,000, it opens the door to taxing the pensions of those with lower AGI in the future. It could slip down to \$75,000, or \$50,000, or lower before the end of this Session or in future Sessions.

"The fact is that this bill will tax our seniors, those on fixed income, those with less opportunity to adjust to our rapidly rising cost of living. Barbara Stanton of the American Association of Retired Persons said it best in this Sunday's *Star-Advertiser* when she said that this, 'came as a shock to Hawaii's seniors whose fixed incomes are no match for rising costs.' According to her, the consumer price index shows a 70 percent increase for Honolulu over the past 20 years. With costs continuing to rise, it is unfair to take from those who were promised tax-free pensions decades ago.

"Mrs. Stanton's article also raised some important legal concerns that this Body should be well-aware of before it moves forward with this bill. First, she points out, federal law prohibits taxing pension income of nonresidents living in Hawaii. Secondly, the Hawaii Constitution states that accrued benefits of retirees in the State retirement system shall not be diminished or impaired. These are potential legal problems that would diminish the gains this bill claims to generate.

"In conclusion Mr. Speaker, I strongly oppose this measure even though the federal Adjusted Gross Income is high, \$100,000, because of its potential legal flaws. But even more than that, because I find the thought of targeting our unsuspecting seniors almost cruel. I vote no on this measure. Mahalo."

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

"Mr. Speaker, I also rise in opposition as my colleague. And to quote the ranking Representative from Kaimuki-Kahala, the bill in its original form was almost cruel. Now it's almost not almost cruel, but it's there. And she cited the AARP Executive Director. I will only paraphrase what the Executive Director is saying of AARP. Leave us alone. Look what you just did with the Highway Fund and these other funds. We don't trust you to leave our pensions alone. Once you get on the threshold and the slope begins, as my colleague just said, they're entrapped.

"So, Mr. Speaker, I think the bottom line is we are on dangerous territory. We know who votes the most, who reads all of our brochures, and who really is probably the most people, if 'Olelo is still on, probably the most people watching us today are those people who are retired and on a pension.

"And lest we forget they worked hard all their life. They're there because they planned to be there. Whether their income is high or whether their income is low, they deserve to enjoy the Sunday night of their lives. What we're doing is saying, 'C'mon guys. It's equity. It's only fair.' And we can use all the superlatives to explain and to justify, but what we're doing is almost cruel and we've got to stay away from it. Thank you."

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

"Mr. Speaker, in strong support. The last Tax Review Commission that was chaired by a rather handsome guy said that pensions should all be taxed equally. About three other Tax Review Commissions prior to that also said the same thing. Mr. Speaker, it's an equality issue. When speakers say that all retirees' pensions are taxed, the majority of the pensions today are taxed because they don't have employer-sponsored plans.

"Let's face it. The pensions that we're talking about are going to be for public workers unions, and probably the military. Everybody else, people like me who work for private companies, our pensions are taxed. So it's



really an equality issue. It shouldn't be surprising to anybody because measures like this have hit this House before.

"The other thing is the only objection that I really think is valid is that we shouldn't surprise people. You know, we shouldn't tax pensions tomorrow and I think the Finance Committee did a wonderful job by putting these very, very high limits. It's really rather brilliant. For single taxpayers it's \$100,000; for married, it's \$200,000. It eliminates most of the employer-sponsored pension plans right now. In fact, it only affects about 3,000 taxpayers and these are taxpayers in very, very, very high incomes.

"Now because we set the limit so high, one day with inflation all pensions will be taxed. But that date will be 15 to 20 years in the future and I believe that's enough warning for anybody. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker, I stand in opposition to this. I would like to enter the words from the Representative of Kahala as my own, and offer a couple of additional comments. I'm a retiree. I need to disclose that. And when I joined the police department in 1980, I made \$1,138 a month, gross. But when I signed on to the police department, I was told that if I did good service and I remained in service for 25 years, that I would get certain benefits. So I was working at a level of pretty much poverty at the time.

"And over the years, there became more equity and the benefits changed as time went on. I believe in 1988, the benefits were adjusted to accommodate the better wages that police officers and others were making. But one of the things that was promised to me was that when I retired, that I would be able to enjoy my retirement tax free from the State. As many other people in the State, for workers, for teachers and everyone, that's what it was. And so that's how I planned my future.

"And as a result I did retire. I was able to retire early age and be involved in business and other things. And so to say that when people retire that they're not going to go out and look for other income and those kinds of things where they may reach this threshold is disingenuous.

"And to say that retirees will have 15 to 20 years to plan is not fair either. Because somebody at that point in their life they may be 80, 85, 90 years old, and they may not be able to adjust when that happens. Many of them may not be able to go back to work to take that into account.

"So I think we really need to take a hard look at this and ask what are the unintended consequences. Who are we actually going after? Are we just going to say, 'Well it's okay because it's the rich retirees and everybody else is safe.' Now that's not fair either. It's like we'll take from the rich and pay for the bills, and that's not correct. Thank you for the time to allow me to put these comments in."

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

"Mr. Speaker, I rise in support. I just wanted to point out that this is a very, very limited approach that has been taken. It's only 0.7% of all tax filers. It is actually only about 5% to 6% of all of those who do have a pension income, and so it is the people who have \$200,000 in a joint filing, or \$100,000 as a single. So we are talking about those that do have the wherewithal probably to pay some level of tax on their income for this pension.

"But there was also a question raised by the Representative from Kahala regarding the legality and whether there is any question. For that I would cite to our Hawaii State Constitution, Article VI, Section 1, which is our constitutional provision that says the power of taxation shall never be surrendered, suspended, or contracted away. And there's a specific case called the Tax Appeal of Director of Taxation vs. Medical Underwriters of California, 115 Haw 180 1997 case that actually held by the Hawaii Supreme Court that yes, this is a sovereign power that isn't subject to the doctrine of a stopple and so therefore, because we have this clear

unabridged power of taxation, this question about whether we can do something with the impairment clause probably does not apply.

"There is a case that happened in Oregon called the Hughes case which did find that it may be a breach of the impairment clause. However in that Oregon case, Oregon does not have a specific prohibition against contracting away the taxation power in their constitution like we do in our Hawaii Supreme Court.

"The additional cases are also one found in Georgia, Parish vs. the ERS System of Georgia. There are New Mexico and Montana cases, Piaz vs. State of New Mexico, Sheehy vs. Public Employees Retirement Division in Montana, and both of these also found that taxation of pensions is probably okay.

"And so I think the legal questions that are presented are not really what's at issue. I think ultimately what is at issue is how are we going to address our budgetary deficit. We took a look at what the Administration has proposed. We found that to be a little bit too harsh and so we ended up limiting it in terms of its affect and application, and ultimately that is the approach that has been taken with a large, large, large majority of all of the revenue enhancement bills that have been passed out of this Body and are going up for further consideration.

"We're trying to do this in the most limited approach possible. We're trying to make sure that we don't have any broad-based tax impact because we do realize that this is still yet somewhat a fragile economy. But nonetheless, we still must balance our budget.

"Nonetheless, we still must pay for the teachers to make sure that we don't have furloughs anymore. We must pay for education so our children can continue to get educated. We must pay for Medicaid so we can make sure that those that most need health services can get them. And so I don't know how else we're going to do it if we don't have some of these revenue enhancement bills.

"Because right now as I understand our budget, we're not going with any enhancements. We're not trying to add anything. We're keeping it as barebones as possible. And unless or until anybody can propose where to find some additional cuts, at this point I think our approach is a very sound one and one that we need to take into serious consideration. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. I do appreciate the fact that it's been ameliorated. The bill has not been passed out the way it was initially. I appreciate that. There's been sensitivity to the idea that there were some people who were in very low-income brackets.

"But when I go back to my district, I think that the best description I can give you is that my people are demoralized on this issue. Because what they I think have the most problem with is that while they know that their stocks might go down, they know prices may go up, inflation, gas prices, this we all have. There are things that are out of balance and you have to do what you have to do. But what they tell me is that it was a promise made. It was a promise made, a promise kept, your word. So when they went through their lives, they were calculating out that they would have the pension and so they behaved in such a way. They made choices in such a way as to arrange their budgets thinking they that would have this with everything else in flux. And so the people that I talked to, that's their biggest concern.

"They realize there's a recession. They realize there's a budget shortfall. They realize that we have to do things, but they're demoralized that government seems like it broke its word to them. And I think that is something important. That is something where we, by when we are leaders, it's good to give our people hope and to make sure that they believe in us because it's through that belief that we have the power, that we have to do good things. So with that, I'm unfortunately still in opposition. Thank you."

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

"Thank you, Mr. Speaker. I stand in support, but I do have reservations. I do want to acknowledge the words of our Majority Leader, and especially in the way the bill came in, and what the Finance Committee did to really narrow the scope and address it, as well as the fact that even with these and all these other measures, the Finance Committee I was told, cut an extra \$200 million this Saturday. That's in addition to the \$2 billion of cuts that have happened over the last two years.

"However, my concerns revolve around two things. One, it's still using the federal AGI. And second, I dispute the fact that the previous Tax Commission Chair is a handsome guy. Thank you, very much."

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

Representative Johanson's written remarks are as follows:

"I rise in opposition to this measure, which I believe would adversely impact our seniors. While I note the efforts my colleagues have made to change thresholds and minimize the impact of this measure, I believe it sets a detrimental precedent for our seniors, one of our most vulnerable populations who can least weather changes to their financial picture.

"Although this version of the legislation sets much higher thresholds than the Governor's original proposal, it still opens the door to future legislation to tax pensions with lower thresholds. I also believe that many people have planned their retirement to Hawaii for more reasons than our island's natural beauty, including many of my retired military constituents. I want to encourage people to choose Hawaii as their home.

"I strongly believe that the State of Hawaii needs to maintain a policy of not taxing the pensions of our elderly."

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

"Thank you, Mr. Speaker. In support. I wanted to make some comments about some previous speakers talking about promises made and promises kept, and talking about the public sector who started 25 or 30 years ago, and they were made a promise.

"Well I can tell you from my own story from the private sector viewpoint working for AT&T. When you're young, you think at the age, and for me it was 16 when I started, that at 16 the promises that I was told were going to be kept. Well I've got to tell you that when I was 32 years of age, they undid everything I thought they were going to do through collective bargaining. They changed the whole pension plan and they took away all of my years before the age of 21 which were being applied to my pension. And I'm thinking, 'What the heck's going on here?'"

"But I've got to tell, we've got to tell young people that are entering the world of employment that what you see today isn't possibly going to look the same 30 to 40 years from now when they get to retirement age. And we all know that people are living to be a hundred, so we all know that pensions between now and 30, and 40 years from now, they are not going to look the same as they do today. And so for these people, yes it's frustrating to think they started 30 years ago and thought maybe they were going to do something.

"But you know, I learned something a long time ago. There's no such thing as security and you've got to plan for yourself. And that's what this is all about. You know people have to plan for their retirement, and their pensions, and their future. They can't be so dependent and assume what we have today is going to be the same 30 or 40 years from now. The reality is it's not.

"And so it's interesting to me, some of the comments about promises made, promises kept. Because who would have know 30 years ago that you could maybe apply overtime in your high three and use that for your pension. I bet that wasn't there 30 years ago. Who would have known 30

years ago you would have all this paid vacation, and sick leave, or vacation leave that you could have cashed out. Who would have known that 30 years ago? So things do evolve and change.

"I just want to point out, I just don't agree with that argument at all. I think that what the Finance Chair and what our colleagues have done, and I really like the words from the Representative from Manoa and I'd like them included in the Journal as my own. I do think that his comment about parity was right on, and I appreciate those comments. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm standing with reservations. I do want to express my appreciation for the Finance Committee and the Finance Chair increasing the threshold. However, I do have concerns that we're again addressing through pensions and I will determine my full support, or lack of support, upon the final version of the bill. Thank you."

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

Representative Pine rose to respond, stating:

"Yes, in opposition, Mr. Speaker. Just in rebuttal. I'm a little perplexed by the Majority Floor Leader's comments. One thing that stuck out in my mind that she said was that we all have to plan for our future. Well that's why the Minority Caucus is against this bill, because these people did plan for their future, very meticulously. And that's why they're living here in Hawaii with their families. So on one hand she's saying plan for your future, but on the other she's saying that it's okay that we stick it to you even though you planned for your future because we need the money.

"I'm also perplexed by what the Representative from Manoa said so briefly. He admitted that yes, in the future, all pensions will be taxed. And that is why the Republican Caucus is against this bill, because it opens the door. And so on this reason we stand with AARP. They know what they're talking about and they just admitted it on the House Floor, that's the goal, the future goal. All pensions taxed. We believe that is wrong, Mr. Speaker.

"The Representative from Manoa also said, 'Don't worry. It'll be later down the line, maybe 15 or 20 years so you can plan.' Will he put that in writing? Will every person on this Floor put it in writing that next year, the following year, and the following years after that, that we're not going to keep raising this tax and lowering the amount to the point where it is what the original bill was, \$37,500? Is everyone here willing to put that in writing?"

"In the beginning of this Session, Mr. Speaker, the Minority Caucus started this Session on the basic premise that we need to keep our word to the people. All these bills that we discussed this whole day, Mr. Speaker, if you add them all up it's probably going to be over a billion dollars that we are taking out of the economy of the State of Hawaii that people thrive on and we're putting it into government.

"So at the beginning of this Session, Mr. Speaker, all we want is, what I'm asking right now, let's put things in writing. We introduced amendments to all of the tax increases that raised, supposedly raising money for the Highway Fund, that you're actually going to use that money for what you're going to say you're raising the money for. But this Body voted that amendment down saying, 'Nah. We don't want to put it in writing.'

"So that's why the AARP is so afraid and concerned about this bill because they don't believe that it's going to be just this thing for the rich. It's going to be for everybody even if you just make \$10,000 a year in pension."

Representative Marumoto rose to respond, stating:

"Thank you, Mr. Speaker. I'm still in opposition. The handsome Representative from Manoa said we shouldn't surprise people and I totally agree with him. On the other hand, Barbara Kim Stanton of AARP said this was a shock to the members of their organization. So it's more than a surprise, it's a shock. And what is even more surprising to them is that this bill is actually retroactive back to January 1st.

"So this would go into effect for this taxable year. Yes it's only maybe 3,000 people, but I think the seniors are quaking in their boots. They're extremely concerned that they're paying a lot of taxes to the federal government and increase taxes on the State level. And as the good Representative of Liliha pointed out, costs are going up. The cost of living. So it is really a scary proposition for our senior citizens.

"The good Majority Leader cited many cases about the power of the State to tax, and his brilliance, and brilliant obfuscation is hard to match. I am not a lawyer, but I do not contest the fact that the State does have the sole power to tax and should not be taken away. But on the other hand, I believe that power can be abused and I think we're abusing it today.

"We passed a series of taxes that are just as long as my arm for fuel, weight taxes, registration, and freight, and surcharges on all sorts of licenses from all different departments. We're delaying deductions and we're taking away exemptions. And really what are we doing to our people? I think we should stop and take a deep breath. Thank you."

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

"Mr. Speaker, in support. It does seem to me that I agree with a lot of what's been said on both sides of the aisle. There are things that strike me as a couple of unfairness. One is that many kinds of retirement income are already taxed. Social security is already taxed. At least much of it, depending on how much you make. If you're very poor, you pay less. And if your social security is addition to other income, then you pay taxes on up to 85% of it. And I also understand the argument that we were told things are going to be a certain way and we want our promises to be kept. I think there is some weight to that argument.

"But what do you do in that situation where you have two unfairnesses? You have an unfairness where everybody else's retirement income is being taxed except if you're getting a pension. Pension is a technical word. It only means a certain kind of retirement income. Or do you try to make it so that the whatever was promised, anybody at any point in their life that the promise is kept. Well I think the answer is you have to compromise because the two unfairnesses are not reconcilable. I think the Finance Committee has done as good a job as can be expected and can be done under difficult circumstances to live within the constraints that our current budget situation has put us in, and be as fair to everyone as we can be. Mahalo."

Representative Ward rose to respond, stating:

"Mr. Speaker, still in opposition. You know, sometimes when we stand up and speak, sometimes we think nobody is listening to us. But like my colleagues, I want to quote the handsome, and I think he's a pretty handsome guy from Manoa who was the former Chair and is now the Representative from Manoa. He not only said we should not surprise people, he also said we should start slowly, and then as my colleague from Ewa Beach said he said, someday all pensions will be taxed.

"I'm not sure that that's fair unless we give him a chance to say is that what he meant? Because we're quoting him and it sounds like that's what he said. So I would ask the good gentleman from Manoa if he would like to say anything about what we just quoted that he said. If he so wishes.

At 6:04 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:05 o'clock p.m.

Representative Choy rose to respond, stating:

"Thank you, Mr. Speaker. Just to clarify, I was quoting from the 2005 Tax Review Commission Report, which I was the Chairman of. If I remember what the report said, it said all pensions should be treated equally, only that we should not be surprising anybody and it should be phased in slowly. I believe that's exactly what the report says, and that's what I was quoting. Thank you."

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

"Mr. Speaker, just a short comment. I wish to speak in favor. I just want to alert my colleagues across the hall here that you have not come up with any alternatives on how to handle the budget, and until you do I think you need to calm some of your statements down. Until you can come up with some sound alternatives to balance the major deficit we have had this year and the past year."

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

Representative Riviere's written remarks are as follows:

"I oppose taxing pensions for residents who have already retired because it is patently unfair to change the rules after the game has ended. We should not begin taxing them after they have completed their careers and no longer have time to adjust their retirement planning. If we are to consider taxing pensions, then we should focus on taxing pensions for future retirees.

"As to the argument that we are only taxing individuals who can afford to pay the tax, I ask why one person's pension is fair game to tax, while another's is not, when they both worked under the same understanding that their pensions would not be taxed. Furthermore, it is only be a matter of time until the Legislature lowers the income threshold to include more tax payers.

"I object to taxing pensions for those who have already retired on principal. Justifying this decision by claiming to only tax the rich is disingenuous and does not make it right."

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

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

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

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

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

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

"Mr. Speaker, I rise in support of HB 1092 HD1 regarding taxation. HB1092 is part of the Governor's package. The bill proposed to tax pension income which is currently not taxed at the State level. The Governor's original proposal applied the tax starting at levels of \$37,500 for single filers, \$56,250 for heads of households, and \$75,000 for joint filers. The bill also proposed to eliminate the deduction for State income taxes paid. The Tax Review Commission has recommended the taxing of pensions for many years.

"The Finance Committee amended the measure so that it will impact only about 4 to 5% of filers. It will tax the pension incomes as follows:

- A. A joint or surviving spouse filer with an adjusted gross income of \$200,000 or more;

- B. An individual filer or married person filing separately with an adjusted gross income of \$100,000 or more; or
- C. A head of household with an adjusted gross income of \$150,000 or more.

"Remember, this is a tax on pension income and; that people who have 401K's or similar retirement options are already taxed. I believe many with incomes this high will be willing and are able to help. The House has no intention to tax those on fixed income who would be placed into hardship by this measure. The average pension of those who have retired from State government service is \$22,999, far from the threshold noted in this bill.

"For these reasons, I ask the Members' support."

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

Representative Har rose to respond, stating:

"Mr. Speaker, I'm sorry. Very quickly. I'm still with reservations and please may I note that I do agree that the introducer of this measure, the Representative from Manoa, is quite handsome. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1092, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 37 ayes to 13 noes, with Representatives Belatti, Brower, Ching, Cullen, Fontaine, Hashem, Johanson, Marumoto, Nishimoto, Pine, Riviere, Thielen and Ward voting no, and with Representative Morita being excused.

#### **H.B. No. 273, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 273, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Pine voting no, and with Representative Morita being excused.

#### **H.B. No. 1140, HD 1:**

Representative B. Oshiro moved that H.B. No. 1140, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. I rise in opposition to this measure. Although we've tried to in Committee lessen the impact of this and only make it for commercial entities, this authorizes a default ruling against a party that fails to pay fees in an arbitration proceeding. I believe that this is overly harsh and an inappropriate penalty allowing rulings against a party even though evidence is presented in its favor. The amendment, like I mentioned, only deals with commercial entities, but that doesn't make it any less unfair. I still think it makes money more important than the facts in the situation meant to address the disputes.

"I understand the reasoning behind putting this measure in was to stop people from not paying the arbitrator's bill and extending arbitration out forever and ever and never getting any resolution to it. But look at the unintended consequences.

"Let's take a look at say for example, a parasailing business. It takes a tourist out on a parasail. The tourist falls to his death on a parasail ride. It turns out there was a defect in the manufacturing of the parachute. Now the family goes and sues that small business owner. The small business owner's cash is completely tied up in defending that lawsuit of the wrongful death, and now is forced to come up and prepay an arbitration bill and is unable to do so against the parachute manufacturer. Hence you get into the situation where he loses the default judgment because of that.

"And I think that we have to look at those kinds of scenarios and look at the unintended consequences when we do this. I understand we don't want to have limbo created out there in the legal system, but I also believe there's a real downside to this as well. Thank you."

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

"Mr. Speaker, I rise in support. Very briefly, anybody can move to set aside a default. It's a very simple motion. Thank you."

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to HB 1140, H.D. 1.

"As an attorney, I cannot support a bill which could create such injustice and also circumvent the purposes of using alternative dispute resolution procedures, such as arbitration.

"This bill would allow arbiters to enter a default judgment against a party simply because the party failed to pay fees or costs. As stated by the Judiciary Department in their testimony: "[t]o dismiss an otherwise valid claim or position for failure to pay up-front fees or costs raises concerns, especially because review of arbitration decisions is limited."

"Decisions and judgments should be made on the merits of a case, not simply because one did not pay costs or fees. The idea that a default judgment should be entered against a party because it has failed to pay arbitration fees or costs is absurd and could cause great injustice. While I appreciate the amendments made in our Committee on Judiciary to apply only to "commercial entities," I still have serious concerns about imposing such a harsh penalty when the sophistication as well as the legal and financial resources of the parties may widely vary.

"Additionally, this bill does not specify when in the arbitration process this default judgment could be entered, meaning an arbiter could enter the default judgment against a party at any time during the arbitration proceeding. The parties could proceed through the entire arbitration, only to have a default judgment entered against them, not on the merits, but because they had not paid some of the fees or costs.

"While supporters of this bill state that one can move to discharge the default judgment, as an attorney I know the reality is that this is a difficult process which is unlikely to be successful and which would add additional burden to our already overloaded court system. One of the primary purposes of arbitration is to avoid court; thus requiring parties to go to court just exacerbates the situation arbitration is intended to remedy.

"As the Representative from Kapolei, I cannot support this measure, which could hurt our citizens and small businesses, and therefore I stand in strong opposition. Thank you, Mr. Speaker."

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1140, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARBITRATION," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Ching, Fontaine, Har, McKelvey, Pine and Thielen voting no, and with Representative Morita being excused.

**H.B. No. 747, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 747, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LIABILITY INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

**H.B. No. 254, HD 1:**

Representative B. Oshiro moved that H.B. No. 254, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker. I'm standing in support for Stand. Com. Report 685, relating to public order. Mr. Speaker, I just wish that this measure included other communities. Those like Mililani, Waipahu, Kapolei, and other communities in the State. This measure addresses people seeing other people defecate in their communities. I think if this measure is worthy of Waikiki, it's worthy of all of our districts. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 254, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

**H.B. No. 1138:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1138, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEY'S LIENS," passed Third Reading by a vote of 50 ayes, with Representative Morita being excused.

At 6:14 o'clock p.m., the Chair noted that the following bills passed Third Reading:

- H.B. No. 1092, HD 1
- H.B. No. 273, HD 1
- H.B. No. 1140, HD 1
- H.B. No. 747, HD 1
- H.B. No. 254, HD 1
- H.B. No. 1138

**INTRODUCTION OF RESOLUTIONS**

By unanimous consent, the following resolutions (H.R. Nos. 80 through 82) and concurrent resolutions (H.C.R. Nos. 87 through 90) were referred to Printing and further action was deferred:

H.R. No. 80, entitled: "HOUSE RESOLUTION RECOGNIZING AND HONORING THE LIFE-SAVING CONTRIBUTIONS AND SACRIFICES MADE BY ORGAN AND TISSUE DONORS AND THEIR FAMILIES," was jointly offered by Representatives Yamane, Aquino, Chong, M. Lee, Manahan, Tsuji and Yamashita.

H.R. No. 81, entitled: "HOUSE RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN IMPACT ASSESSMENT OF PROPOSED MANDATORY MENTAL HEALTH TREATMENT COVERAGE FOR CRISIS SUBSTANCE ABUSE AND ALCOHOL TREATMENT," was offered by Representative Yamane.

H.R. No. 82, entitled: "HOUSE RESOLUTION REQUESTING THE ESTABLISHMENT OF A CLEFT LIP AND CLEFT PALATE CENTER OF EXCELLENCE," was jointly offered by Representatives Yamane, Aquino and Cullen.

H.C.R. No. 87, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR SURVIVORS OF TRAUMATIC BRAIN INJURIES," was offered by Representative Yamane.

H.C.R. No. 88, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING AND HONORING THE LIFE-SAVING CONTRIBUTIONS AND SACRIFICES MADE BY ORGAN AND TISSUE DONORS AND THEIR FAMILIES," was jointly offered by Representatives Yamane, Aquino, Chong, M. Lee, Manahan, Tsuji and Yamashita.

H.C.R. No. 89, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN IMPACT ASSESSMENT OF PROPOSED MANDATORY MENTAL HEALTH TREATMENT COVERAGE FOR CRISIS SUBSTANCE ABUSE AND ALCOHOL TREATMENT," was offered by Representative Yamane.

H.C.R. No. 90, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A CLEFT LIP AND CLEFT PALATE CENTER OF EXCELLENCE," was jointly offered by Representatives Yamane, Aquino and Cullen.

**ANNOUNCEMENTS**

**COMMITTEE ASSIGNMENTS**

The following measures were referred to committee by the Speaker:

<u>S.B. Nos.</u>	<u>Referred to:</u>
1292	Jointly to the Committee on Human Services and the Committee on Health, then to the Committee on Finance
1293	Committee on Human Services, then to the Committee on Finance

**ADJOURNMENT**

At 6:14 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon Thursday, March 10, 2011. (Representative Morita was excused.)