

FORTY-EIGHTH DAY

Tuesday, April 13, 1999

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, convened at 10:12 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Ken Miller, First Assembly of God Church, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Forty-Seventh Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 267 to 286) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 267, advising the Senate of the withdrawal of the nomination of CALVIN K. MURASHIGE to the Defender Council, under Gov. Msg. No. 235 dated March 11, 1999, was placed on file.

In compliance with Gov. Msg. No. 267, the nomination listed under Gov. Msg. No. 235 was returned.

Gov. Msg. No. 268, submitting for consideration and confirmation to the Board of Public Accountancy, the nomination of JENNIFER M.H.F. KIM, term to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 269, submitting for consideration and confirmation to the Board of Acupuncture, the nominations of MELVIN S.H. FONG and CHRISTIANE W. CHRIST, O.M.D., terms to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 270, submitting for consideration and confirmation to the Board of Directors, Aloha Tower Development Corporation, the nomination of PETER B.H. KIM, term to expire June 30, 2003, was referred to the Committee on Economic Development.

Gov. Msg. No. 271, submitting for consideration and confirmation to the Aquatic Life and Wildlife Advisory Committee, County of Hawai'i, the nomination of STEVEN J. ARAUJO, term to expire June 30, 2003, was referred to the Committee on Economic Development.

Gov. Msg. No. 272, submitting for consideration and confirmation to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, the nominations of DERYCK ISHIMOTO, JACK N. GUSHIKEN and ANTHONY KAUAHI, terms to expire June 30, 2003, was referred to the Committee on Economic Development.

Gov. Msg. No. 273, submitting for consideration and confirmation to the Barbers Point Naval Air Station Redevelopment Commission, the nomination of RICK EGGED, term to expire June 30, 2000, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 274, submitting for consideration and confirmation to the State Board of Chiropractic Examiners, the nomination of NICHOLAS G. OPIE, D.C., term to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 275, submitting for consideration and confirmation to the Board of Electricians and Plumbers, the nominations of GREGORY S. ENDO, MARK H. FUJIMOTO

and ROBERT Y. KATSURA, terms to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 276, submitting for consideration and confirmation to the Environmental Council, the nominations of: LANCE K. GILLILAND and PAULINE SATO, terms to expire June 30, 1999 and June 30, 2003; and PHILIP K. OTA, STEVEN S.C. LIM, CHARLES A. PRENTISS, Ph.D., and MICHAEL A. FAYE, terms to expire June 30, 2003, was referred to the Committee on Labor and Environment.

Gov. Msg. No. 277, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Hurricane Relief Fund, the nominations of RONALD K. MIGITA, GERALD H. TAKEUCHI and LORNA A. NISHIMITSU, terms to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 278, submitting for consideration and confirmation to the Board of Directors, High Technology Development Corporation, the nominations of THOMAS I. FUJIKAWA, KEN KOIKE and CREIGHTON D. ARITA, terms to expire June 30, 2003, was referred to the Committee on Economic Development.

Gov. Msg. No. 279, submitting for consideration and confirmation to the State Highway Safety Council, the nominations of T.B. LYONS III, HARVEY A. SHAPIRO, GEORGE KAWAKAMI, LEILANI CHRISTY LEE and HERNANDO R. TAN, terms to expire June 30, 2003, was referred to the Committee on Transportation and Intergovernmental Affairs.

Gov. Msg. No. 280, submitting for consideration and confirmation to the Board of Examiners in Naturopathy, the nominations of: JASON Y. UCHIDA, N.D. and CHARLES H. TURNER, terms to expire June 30, 2002; and AUDREY INABA, term to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 281, submitting for consideration and confirmation to the Pest Control Board, the nomination of ERIC HIGASHIHARA, term to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 282, submitting for consideration and confirmation to the Board of Physical Therapy, the nominations of JAN K. YOKOYAMA and JONI S. KANAZAWA, P.T., terms to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 283, submitting for consideration and confirmation to the Board of Psychology, the nominations of DAVID S. WEISS, Ph.D., BARBARA B. SLOGGETT, Ph.D., and GINGER A. KOLONICK, terms to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 284, submitting for consideration and confirmation to the Real Estate Commission, the nomination of PATRICIA CHOI, term to expire June 30, 2003, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 285, submitting for consideration and confirmation to the Reproductive Rights Protection Committee, the nominations of JANICE IRENE HANSEN, M.D. and AMY KURAOKA-GOO, terms to expire June 30, 2003, was referred to the Committee on Health and Human Services.

Gov. Msg. No. 286, submitting for consideration and confirmation to the Board of Speech Pathology and Audiology,

the nominations of: LINDA D. CHIU, M.D., terms to expire June 30, 1999 and June 30, 2002; FAITH Y. LEBB and THELMA YOSHIDA, terms to expire June 30 2001; and FAYE A.T. MATSUNAGA and JANICE S. SHINTANI, terms to expire June 30, 2002, was referred to the Committee on Commerce and Consumer Protection.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 459 to 463) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 459, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 72, H.D. 2 (S.D. 1);
 H.B. No. 77, H.D. 1 (S.D. 1);
 H.B. No. 83, H.D. 1 (S.D. 1);
 H.B. No. 154, H.D. 1 (S.D. 1);
 H.B. No. 165, H.D. 1 (S.D. 1);
 H.B. No. 170, H.D. 2 (S.D. 1);
 H.B. No. 248, H.D. 1 (S.D. 1);
 H.B. No. 260, H.D. 2 (S.D. 1);
 H.B. No. 307, H.D. 2 (S.D. 1);
 H.B. No. 310, H.D. 1 (S.D. 1);
 H.B. No. 326, H.D. 1 (S.D. 1);
 H.B. No. 602 (S.D. 1);
 H.B. No. 719, H.D. 2 (S.D. 1);
 H.B. No. 743, H.D. 3 (S.D. 1);
 H.B. No. 746, H.D. 1 (S.D. 1);
 H.B. No. 842, H.D. 2 (S.D. 1);
 H.B. No. 1149, H.D. 1 (S.D. 1);
 H.B. No. 1162, H.D. 2 (S.D. 1);
 H.B. No. 1180 (S.D. 1);
 H.B. No. 1367, H.D. 2 (S.D. 1);
 H.B. No. 1401, H.D. 2 (S.D. 1);
 H.B. No. 1496, H.D. 1 (S.D. 1); and
 H.B. No. 1675, H.D. 1 (S.D. 1),

was placed on file.

Hse. Com. No. 460, transmitting H.C.R. No. 122, which was adopted by the House of Representatives on April 9, 1999, was placed on file.

By unanimous consent, H.C.R. No. 122, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE TO RECOMMEND THE USE OF HEMP FIBER SOIL EROSION CONTROL BLANKETS WHENEVER FEASIBLE," was referred jointly to the Committee on Economic Development and the Committee on Labor and Environment, then to the Committee on Judiciary.

Hse. Com. No. 461, transmitting H.C.R. No. 123, which was adopted by the House of Representatives on April 9, 1999, was placed on file.

By unanimous consent, H.C.R. No. 123, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO EXAMINE THE FEASIBILITY OF GROWING INDUSTRIAL HEMP IN HAWAII FOR BIOMASS ENERGY PRODUCTION," was referred to the Committee on Economic Development, then to the Committee on Judiciary.

Hse. Com. No. 462, transmitting H.C.R. No. 136, which was adopted by the House of Representatives on April 9, 1999, was placed on file.

By unanimous consent, H.C.R. No. 136, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE

RESTORATION OF MOKU'ULA AND LOKO O MOKUHINIA," was referred jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Education and Technology, then to the Committee on Ways and Means.

Hse. Com. No. 463, transmitting H.C.R. No. 252, H.D. 1, which was adopted by the House of Representatives on April 9, 1999, was placed on file.

By unanimous consent, H.C.R. No. 252, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES AND EACH COUNTY TO ENTER INTO LONG-TERM LEASES AND DEVELOPMENT AGREEMENTS WITH CANOE RACING ASSOCIATIONS THAT DESIRE TO MAKE IMPROVEMENTS TO THEIR EXISTING TENANCIES," was referred jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means.

STANDING COMMITTEE REPORTS

Senators Kanno and Taniguchi, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1609) recommending that S.C.R. No. 174, as amended in S.D. 1, be adopted.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 174, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A TASK FORCE ON ALTERNATIVE MEDICINE," was adopted.

Senators Kanno and Taniguchi, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1610) recommending that S.R. No. 80, as amended in S.D. 1, be adopted.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 80, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF A TASK FORCE ON ALTERNATIVE MEDICINE," was adopted.

Senator Nakata, for the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 1611) recommending that S.C.R. No. 132, S.D. 1, be adopted.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 132, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO IMPLEMENT THE 1996 FOOD QUALITY PROTECTION ACT USING SOUND SCIENCE AND REAL-WORLD DATA FROM THE DATA CALL-IN PROCESS FOR REALISTIC RISK ASSESSMENTS," was adopted.

Senator Nakata, for the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 1612) recommending that S.C.R. No. 104, S.D. 1, be adopted.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 104, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES TO ESTABLISH THE STATE OF HAWAII AS A GLOBAL LABORATORY FOR RESEARCH ON THREATENED, ENDANGERED, AND EXTINCT SPECIES ISSUES," was adopted.

Senator Nakata, for the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 1613) recommending that S.R. No. 44, S.D. 1, be adopted.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 44, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES TO ESTABLISH THE STATE OF HAWAII AS A GLOBAL LABORATORY FOR RESEARCH ON THREATENED, ENDANGERED, AND EXTINCT SPECIES ISSUES," was adopted.

ORDER OF THE DAY

MATTERS DEFERRED FROM FRIDAY, APRIL 9, 1999

THIRD READING

Stand. Com. Rep. No. 1392 (H.B. No. 328, H.D. 1, S.D. 2):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1392 was adopted and H.B. No. 328, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1393 (H.B. No. 562, S.D. 2):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1393 was adopted and H.B. No. 562, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 664, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 664, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REQUIRED RESERVES FOR A DEPOSITORY FINANCIAL SERVICES LOAN COMPANY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1397 (H.B. No. 531, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1397 was adopted and H.B. No. 531, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1398 (H.B. No. 557, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1398 was adopted and H.B. No. 557, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR TROPICAL FLOWER RESEARCH AND PROGRAMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1402 (H.B. No. 898, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1402 was adopted and H.B. No. 898, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF AN AGRICULTURAL WATER SYSTEM FOR UPCOUNTRY MAUI," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1406 (H.B. No. 1008, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1406 was adopted and H.B. No. 1008, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO LIABILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1412 (H.B. No. 1177, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1412 was adopted and H.B. No. 1177, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VESSELS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1417 (H.B. No. 172, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1417 was adopted and H.B. No. 172, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOSPICE SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1422 (H.B. No. 314, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1422 was adopted and H.B. No. 314, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE AQUARIUM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1424 (H.B. No. 374, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1424 was adopted and H.B. No. 374, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1425 (H.B. No. 377, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1425 was adopted and H.B. No. 377, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1426 (H.B. No. 424, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1426 was adopted and H.B. No. 424, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FOREST RESERVES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1428 (H.B. No. 547, H.D. 3, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1428 was adopted and H.B. No. 547, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1429 (H.B. No. 645, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1429 was adopted and H.B. No. 645, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO VETERANS RIGHTS AND BENEFITS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1431 (H.B. No. 978, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1431 was adopted and H.B. No. 978, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1434 (H.B. No. 1020, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1434 was adopted and H.B. No. 1020, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL LOAN PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1197, H.D. 2, S.D. 1:

On motion by Senator Fukunaga, seconded by Senator Levin and carried, H.B. No. 1197, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1449 (H.B. No. 1683, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1449 was adopted and H.B. No. 1683, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 791, H.D. 2:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 791, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1072, H.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 1072, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REVERSE MORTGAGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1473 (H.B. No. 1350, H.D. 1):

On motion by Senator Tam, seconded by Senator Matsuura and carried, Stand. Com. Rep. No. 1473 was adopted and H.B. No. 1350, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF RECYCLED OIL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

THIRD READING

Stand. Com. Rep. No. 1461 (H.B. No. 512, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1461 was adopted and H.B. No. 512, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1462 (H.B. No. 519, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1462 was adopted and H.B. No. 519, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1465 (H.B. No. 1460, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1465 was adopted and H.B. No. 1460, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE EXPANSION OF THE VIDEO ARRAIGNMENT AND CONFERENCING SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 47, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 47, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN ASSISTANTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 353, H.D. 2, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 353, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1063, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 1063, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1411, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 1411, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ACUPUNCTURE PRACTITIONERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1475 (H.B. No. 174, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1475 was adopted and H.B. No. 174, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE CHILDREN'S HEALTH INSURANCE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1477 (H.B. No. 333, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1477 was adopted and H.B. No. 333, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1480 (H.B. No. 718, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1480 was adopted and H.B. No. 718, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1484 (H.B. No. 1, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1484 was adopted and H.B. No. 1, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER

SAFETY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1485 (H.B. No. 4, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1485 was adopted and H.B. No. 4, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POLICE ROADBLOCK PROGRAMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1486 (H.B. No. 715, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1486 was adopted and H.B. No. 715, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1487 (H.B. No. 1181, H.D. 1, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1487 was adopted and H.B. No. 1181, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1488 (H.B. No. 1186, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1488 was adopted and H.B. No. 1186, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WILDLIFE PENALTIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 325, H.D. 2, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 325, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 658, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 658, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 177, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 177, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARASSMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 300, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 300, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1497 (H.B. No. 661, H.D. 3, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1497 was adopted and H.B. No. 661, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED WIRELESS EMERGENCY 911 SERVICE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1498 (H.B. No. 1048, H.D. 1, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1498 was adopted and H.B. No. 1048, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. 1499 (H.B. No. 1064, H.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 1499 and H.B. No. 1064, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HURRICANE RELIEF FUND BONDS," was deferred until Tuesday, May 4, 1999.

Stand. Com. Rep. No. 1500 (H.B. No. 1079, H.D. 3, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1500 was adopted and H.B. No. 1079, H.D. 3, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVERSION OF BUSINESS ENTITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1501 (H.B. No. 1624, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1501 was adopted and H.B. No. 1624, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1503 (H.B. No. 797, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1503 was adopted and H.B. No. 797, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OUTDOOR RECREATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1504 (H.B. No. 945, H.D. 1, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1504 was adopted and H.B. No. 945, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL PARKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1505 (H.B. No. 1280, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1505 was adopted and H.B. No. 1280, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1506 (H.B. No. 389, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1506 was adopted and H.B. No. 389, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1511 (H.B. No. 1170, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1511 was adopted and H.B. No. 1170, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COST-RECOVERY FEES FOR DELINQUENT LIBRARY ACCOUNTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1515 (H.B. No. 895, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1515 was adopted and H.B. No. 895, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1516 (H.B. No. 1120):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1516 was adopted and H.B. No. 1120, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL CARE SERVICES PAYMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1517 (H.B. No. 1125, H.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1517 was adopted and H.B. No. 1125, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RECOVERY OF MEDICAL PAYMENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1519 (H.B. No. 1620, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1519 was adopted and H.B. No. 1620, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE COMMUNITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1526 (H.B. No. 1296, H.D. 1, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1526 was adopted and H.B. No. 1296, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KANEOHE BAY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1649, H.D. 2, S.D. 1:

On motion by Senator Fukunaga, seconded by Senator Levin and carried, H.B. No. 1649, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1530 (H.B. No. 749, H.D. 3, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1530 was adopted and H.B. No. 749, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DIETITIANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1532 (H.B. No. 830, H.D. 1, S.D. 2):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1532 was adopted and H.B. No. 830, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1533 (H.B. No. 104, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1533 was adopted and H.B. No. 104, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 10:

On motion by Senator Kawamoto, seconded by Senator Bunda and carried, H.B. No. 10, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 11, H.D. 1, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Bunda and carried, H.B. No. 11, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 657, H.D. 2, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 657, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1558 (H.B. No. 827, H.D. 3, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1558 was adopted and H.B. No. 827, H.D. 3, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 375, H.D. 1, S.D. 1:

On motion by Senator Fukunaga, seconded by Senator Levin and carried, H.B. No. 375, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1569 (H.B. No. 1115, H.D. 2, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1569 was adopted and H.B. No. 1115, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOSTER BOARDING HOMES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1575 (H.B. No. 161, H.D. 1, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1575 was adopted and H.B. No. 161, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SEARCH AND RESCUE COSTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1576 (H.B. No. 1622, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1576 was adopted and H.B. No. 1622, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 955, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 955, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 500, H.D. 3, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 500, H.D. 3, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1587 (H.B. No. 582, H.D. 2, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1587 was adopted and H.B. No. 582, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1590 (H.B. No. 1142, H.D. 3, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1590 was adopted and H.B. No. 1142, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1591 (H.B. No. 1153, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1591 was adopted and H.B. No. 1153, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RETAIL LIQUOR SALES TO MINORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1598 (H.B. No. 1160, H.D. 1, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1598 was adopted and H.B. No. 1160, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY APPEALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 10:19 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:26 o'clock a.m.

MATTERS DEFERRED FROM FRIDAY, APRIL 9, 1999

THIRD READING

Stand. Com. Rep. No. 1399 (H.B. No. 677, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1399 be adopted and H.B. No. 677, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose in support of the measure with reservations and stated:

"Mr. President, I rise to speak in support of the measure with reservations.

"The original measure, I think, called for an appropriation of \$100,000 for yet another study. We have spent money on this ocean platform in terms of having a conference prior to this. There is abundant research out in the real world as to what the possibilities are. I believe the Japanese and others have been working on this, so I have reservations. I would like to see the University become more prominent. I'd like to see us do things. I don't want to see more studies, however.

"Thank you."

Senator Taniguchi rose to support the measure and stated:

"Mr. President, I stand in support of this bill.

"Mr. President, this is a bill that was supported by the late Dennis Toyomura who actively lobbied for this bill and who recently passed away. I would hope that the members would support this bill in his memory.

"Thank you."

Senator Iwase then added:

"Mr. President, I'm rising to speak in support of the bill.

"I would like the comments of the Senator from Manoa incorporated as though they were my own. This is something for Dennis."

The Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1399 was adopted and H.B. No. 677, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AN OCEAN FLOATING, ALL-NATURAL CLEAN ENERGY POWER STATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Anderson rose on a point of personal privilege and said:

"Mr. President, would it be improper if I wanted to stand on a point of personal privilege?"

The Chair responded: "Please state your point."

Senator Anderson continued:

"Thank you very much, Mr. President.

"Since we just started and this was the first bill, I'd like to say that there's been some rumors around that a lot of us vote because of our party. I would like you to know, if that's the case then I would vote against every bill here and we could all play games. I think we've come to the point where most of us feel that we owe the people of the State of Hawaii the best that we can possibly give to help them. And that's what most of these bills reflect. It has nothing to do with party. And that's what I'd like to say this morning. There have been some bills that have been overlooked that might have moved us forward economically, but for the best part, most of us here are going to be voting for what's good for the State of Hawaii and not because of party.

"Thank you very much, Mr. President."

Stand. Com. Rep. No. 1403 (H.B. No. 949, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1403 was adopted and H.B. No. 949, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1405 (H.B. No. 1006, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1405 was adopted and H.B. No. 1006, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO A SENTENCING SIMULATION MODEL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1407 (H.B. No. 1012, H.D. 1, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1407 be adopted and H.B. No. 1012, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise to speak against the bill.

"Mr. President, the bill is a good bill. It promotes recycling. We're all in favor of recycling, but I will be entirely consistent. I will vote against every bill that seeks to establish or re-establish a special fund within the State.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1407 was adopted and H.B. No. 1012, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CLEAN HAWAII FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson, Slom).

Stand. Com. Rep. No. 1409 (H.B. No. 1095, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1409 be adopted and H.B. No. 1095, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Anderson rose to speak on the measure with reservations and said:

"Mr. President, I will be voting for this measure with some reservations.

"I'm just worried that the Office of Hawaiian Affairs was started, supposedly, not as a part of the State, yet it is depending on some of its budget to come from us, and we are looking at giving them a retirement fund and other things. I have some questions as to if those funds will ever be returned to the State, if in fact they will be excluded as a department and stand on their own, whereby those of us who do vote for the Office of Hawaiian Affairs trustees will make them where they are subject to do the best that they can for the overall Hawaiian community and not have to worry about if they are going to be doing the best that they can for the constituency of the State of Hawaii and not the beneficiaries for whom they represent.

"The way it stands right now, it seems that we're looking at taking some of the dollars that OHA has for benefits of different types of state funding that we need. And also, we look at the trustees who are looking at trying to invest the money rather than put them out for the programs that are very needed for the Hawaiian community.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1409 was adopted and H.B. No. 1095, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE REVIEW OF THE SALARIES OF THE TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1413 (H.B. No. 1575, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1413 be adopted and H.B. No. 1575, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the measure as follows:

"Mr. President, I rise to speak against the bill.

"While I'm certainly in favor of all kinds of initiatives for young people and for conferences and activities that will bring people to the State of Hawaii, I'm troubled by this bill. First of all, it's sponsored by an organization called Peace Child International, which is a London based corporation, non-profit, and also supported by the United Nations.

"During the hearings there was conflicting testimony as to what the money was going to be used for, who the money was going to pay for, who was going to choose the delegates from around the world, and I think the last bit of testimony was that there probably would be no more than two delegates from the State of Hawaii. We'll be bringing in young people, but the question is what the agenda would be.

"In the past, unfortunately, we have gotten involved as a state and as a nation in using taxpayer money to support those kinds of projects and those kinds of activities that basically did not stress the free market, did not stress our Republican form of government, did not stress overall economic development, and in fact, using money to host and to sponsor conferences and seminars in opposition.

"So, while I certainly applaud the efforts of a private entity to do this on their own, I do not think that the State should be using taxpayer money to do this, particularly when we are using a blank amount or a \$2 amount to do it. So I will be voting 'no.'

"Thank you."

Senator Chun Oakland rose to speak in support of the measure and said:

"Mr. President, I speak in support of this bill.

"The Millennium Young People's Congress, which will occur from October 25 to 29, is an effort on the part of the United Nations in conjunction with the State of Hawaii who has been chosen as the host site for this international congress to occur. Hawaii had vied with London for the honor of being the host for this international event. It will involve over 193 countries. Young people from all over the world will be here -- two per country being represented -- along with many local students who will be involved not only as representatives at the Congress but also as volunteer stewards who will be participating in making sure that the Congress and its activities

will be undertaken and implemented in a very professional manner.

"It is quite exciting to know that there will be 15- to 18-year olds from all over the world that will be discussing global issues in regards to the sustainability of the globe in the next millennium. And I think we're very honored to be that host for this international conference, and I know that there will be much publicity world-wide about this event and for a very worthy cause.

"Thank you."

Senator Anderson inquired:

"Mr. President, may I ask the chairman of the committee a question?"

Senator Chun Oakland having answered in the affirmative, Senator Anderson continued:

"I know that there's a \$2 figure. Do we have an accurate figure of approximately . . . because that's what we seem to end up with rather than an accurate but an approximate figure."

Senator Chun Oakland replied:

"Yes, it's \$250,000 and this is an appropriation bill specifically to make sure that the homestay accommodations for all the young people that will be coming from the various countries . . ."

Senator Anderson interjected:

"So it's approximately \$350,000?"

Senator Chun Oakland responded:

"Two hundred and fifty thousand dollars."

Senator Anderson then said:

"Two hundred and fifty thousand dollars. Mahalo."

Senator Anderson then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1413 was adopted and H.B. No. 1575, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MILLENIUM YOUNG PEOPLE'S CONGRESS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1427 (H.B. No. 440, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1427 was adopted and H.B. No. 440, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1433 (H.B. No. 988, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1433 be adopted and H.B. No. 988, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the measure as follows:

"Mr. President, I rise to speak against the bill.

"We have been talking about Year 2000 compliant bills and exempting liability and paying costs for several years now. First of all, I take issue with this as an emergency appropriation. Secondly, in the testimony that's been given in the hearings, the Department of Accounting and General Services and other state departments have said that they are right on schedule and they're near to where they're supposed to be. They'll be finished by September. Therefore, I don't think they need either additional immunity nor additional taxpayer appropriations for this.

"Thank you."

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1433 was adopted and H.B. No. 988, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR STATE GOVERNMENT TO IMPLEMENT YEAR 2000 COMPLIANCE EFFORTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1438 (H.B. No. 1138, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1438 be adopted and H.B. No. 1138, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak on the measure with reservations and said:

"Mr. President, I'd like to speak in support of the bill with reservations, and my reservations have to do with the concern for individual privacy and the distribution of medical information.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1438 was adopted and H.B. No. 1138, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Anderson). Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1440 (H.B. No. 1166, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1440 be adopted and H.B. No. 1166, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1440 was adopted and H.B. No. 1166, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT AND TRAINING FUND PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1445 (H.B. No. 1416, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1445 was adopted and H.B. No. 1416, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1446 (H.B. No. 1628, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1446 be adopted and H.B. No. 1628, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to support the measure with reservations as follows:

"Mr. President, I rise to speak in favor with reservations.

"It's a good bill. We certainly want to improve and encourage agriculture and agricultural loans, fine. My only concern and my reservation is how the fee is going to be determined for underwriting and services. I think we need some guidelines. I don't want to see the fees as a revenue producing activity.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1446 was adopted and H.B. No. 1628, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige),

Stand. Com. Rep. No. 1447 (H.B. No. 1641, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1447 be adopted and H.B. No. 1641, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Nakata requested a conflict ruling as follows:

"Mr. President, I request a ruling on a possible conflict of interest."

The Chair responded:

"Please state your potential conflict.:

Senator Nakata replied:

"The agency that I work for off-session may benefit financially from this bill."

The Chair ruled that Senator Nakata was not in conflict.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1447 was adopted and H.B. No. 1641, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICALLY UNDERSERVED," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1450 (H.B. No. 1693, H.D. 1, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1450 be adopted and H.B. No. 1693, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senators Slom and Anderson requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1450 was adopted and H.B. No. 1693, H.D. 1, S.D. 1,

entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Stand. Com. Rep. No. 1458 (H.B. No. 1172, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1458 be adopted and H.B. No. 1172, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom, rising in opposition to the measure then stated:

"Mr. President, I rise to speak against the bill.

"This is another bill that creates yet another special fund. Also, it will increase the number of employees and the amount of government which goes against the platform, I think, of the Majority party, so I vote 'No.'"

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1458 was adopted and H.B. No. 1172, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUREAU OF CONVEYANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

THIRD READING

Stand. Com. Rep. No. 1459 (H.B. No. 274, H.D. 3, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1459 be adopted and H.B. No. 274, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Sakamoto rose to speak on the measure with reservations and said:

"Mr. President, I rise to speak in support with reservations.

"Mr. President, this bill . . . I guess I'm deeply concerned that separation of the family unit will result if this bill is passed in its present form. I believe we're moving too fast and too often in allowing the Department the opportunity to file a motion for a permanent planned hearing if the child has been residing outside the family for 12 consecutive months or an aggregate of 15 out of the past 22 months.

"Mr. President, I believe the family unit is important to facilitate family culture, customs, discipline and responsibilities, and some cultures require a longer time than others, therefore, a specific time is not what's considered to be best in this case for a permanent plan hearing.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1459 was adopted and H.B. No. 274, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1460 (H.B. No. 510, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1460 be adopted and H.B. No. 510, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to support the measure with reservations as follows:

"Mr. President, I rise to speak in support of the bill with reservations.

"We all understand that all public employees should be protected in the area of Felix/Cayetano, and the Department of Education folks will be in the front lines. What troubles me, Mr. President, is that this should be a job for the Attorney General and not to go out and hire additional attorneys, and that's what we're doing not only in the DOE but also in other agencies in other bills that will be coming up. I think it is improper that we do that because our first responsibility is to take care of Felix/Cayetano. We have a time certain date on that, and I know that the Attorney General is busy with so many other activities but I think this is yet another example of the Attorney General's office not establishing priorities. So I'll vote with reservations.

"Thank you."

Senator Anderson then said:

"Likewise, Mr. President. I believe we brought this up in the first round and the bill hasn't really changed any."

Senator Kawamoto rose to support the measure as follows:

"Mr. President, I rise to speak in favor of the bill.

"Mr. President, this bill came about because of the fact that our people in the field have no confidence in the Attorney General to protect their rights and protect their ability to do their jobs. That's the reason why we had to put this bill forward and we ask all of our colleagues to vote 'aye' on his bill.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1460 was adopted and H.B. No. 510, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1463 (H.B. No. 522, H.D. 3, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1463 be adopted and H.B. No. 522, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak on the measure with reservations and said:

"Mr. President, I rise in support with reservations.

"I support the concept. I support what we're doing. However, the advisory body of the Executive Council had indicated that in fact they did not want to become an advisory body to the Board of Education.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1463 was adopted and H.B. No. 522, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE SCHOOL-TO-WORK OPPORTUNITIES PILOT PROJECT,"

having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Iwase).

Stand. Com. Rep. No. 1464 (H.B. No. 980, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1464 be adopted and H.B. No. 980, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1464 was adopted and H.B. No. 980, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION WATER DEVELOPMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Iwase).

MATTER DEFERRED FROM FRIDAY, APRIL 9, 1999

THIRD READING

Stand. Com. Rep. No. 1472 (H.B. No. 1083, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1472 was adopted and H.B. No. 1083, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Anderson). Excused, 1 (Iwase).

THIRD READING

Stand. Com. Rep. No. 1474 (H.B. No. 20, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1474 be adopted and H.B. No. 20, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom, rising in opposition to the measure, then stated:

"Mr. President, I'm rising to speak against the bill.

"I had indicated earlier that I would go along with salaries this year as long as all of the other financial concerns were taken care of by this Legislature, and also that our promise on the first day of this Legislature to stimulate economic development and a better business climate would be realized. Unfortunately, we have not kept our promise. We have not done anything. We've not passed anything. We've not turned the economy around, other than to have the Baywatch babes, of course, coming. And while I believe that the judges do, in fact, deserve a pay raise, we are back to the point where we don't know how much that pay raise is going to be. It was going to be 18 percent, retroactive. Now we have a blank amount. Everybody is worrying about what's going to happen in conference, but we're called upon to vote today. So, voting without actual figures and without having legislation that has improved our economy so that we can pay greater salaries, I'm forced to vote 'no.'

"Thank you."

Senator Tam rose with reservations as follows:

"Mr. President, I stand before you to vote with reservations on this bill.

"Mr. President and fellow colleagues, to be consistent in terms of what I said before, I truly believe that since agreements were made in collective bargaining last year or so, we should keep our promise and, therefore, judges or executives, cabinet members, and even ourselves should be secondary.

"Also, I received a letter from Chief Justice Moon. He expressed concern over what I said previously in terms of what he had stated about two years ago that he would fire clerks. Well, he expressed concern because he feels that morale would be lowered if people knew what he said. And therefore, he acknowledges truthfully that clerks within the Judiciary should receive a pay raise first before he does.

"Thank you."

Senator Iwase requested a conflict ruling as follows:

"Mr. President, a ruling on a conflict.

"A family member is a judge."

The Chair responded:

"The Chair rules no conflict. You may vote on this measure."

Senator Buen requested her vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1474 was adopted and H.B. No. 20, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (M. Ige, Kanno, Slom).

Stand. Com. Rep. No. 1476 (H.B. No. 176, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1476 be adopted and H.B. No. 176, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to support the measure with reservations as follows:

"Mr. President, I rise to support the bill with reservations.

"I think that basically it's a good bill with a good intent. Unfortunately, I think that we've got a problem in terms of fees and penalties, and this could turn out to be a very bad bill for both retailers and consumers, depending on how the administrative rules are actually developed.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1476 was adopted and H.B. No. 176, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1478 (H.B. No. 499, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1478 be adopted and H.B. No. 499, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak on the measure with reservations and said:

"I'm going to rise to support the bill with reservations, Mr. President.

"I'm just wondering whether putting OHA trustee retirees on the public retirement system is constitutionally valid. I haven't heard that issue addressed, so I would like to hear a clarification on that, but in the meantime I still will go with reservations.

"Thank you."

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1478 was adopted and H.B. No. 499, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1479 (H.B. No. 700, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1479 was adopted and H.B. No. 700, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS BUDGET," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1481 (H.B. No. 806, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1481 be adopted and H.B. No. 806, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Inouye rose to speak against the measure as follows:

"Mr. President, I speak in opposition of this bill.

"My office has been inundated with phone calls and my constituents have expressed serious concerns about this bill. They tell me that a racing park is incompatible with the surrounding areas and just a bad site for the speedway.

"For those reasons, Mr. President, I will be voting in opposition of this bill."

Senator Slom also rose to speak against the measure as follows:

"Mr. President, I rise to speak in opposition to the bill, also.

"I think, first of all, the land to be granted by the State in this bill is not specifically identified. Secondly, the alleged investors are not identified. Thirdly, the bill itself makes no specific mechanism for the land exchange. Fourth, the bill doesn't identify which state agency or entity shall decide whether to make the exchange or what guidelines it shall use in making the ultimate decision, if any. And fifth and finally, we have to ask the question, Why should the people of the State pay for half the appraisal if the concern is that the appraiser be disinterested? Make the other party pay and give the State the money to pay for the appraisal.

"I think there are too many questions about this and I think we've been around before on raceway parks. I don't want us to get into that situation again.

"Thank you."

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

At 10:53 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:57 o'clock a.m.

Senator M. Ige then rose in opposition to the measure and stated:

"Mr. President, after discussion with the Senator who represents that area, I will be voting 'no' on this measure.

"Thank you."

Senator Iwase rose to speak on the measure with reservations and said:

"Mr. President, because of the questions raised by the Senator from Hawaii Kai, please record a 'with reservation' vote for me.

"Also, I believe the normal process in the past was, and I think it's by statute, that we disapprove land exchanges and at that time more specifics are presented to the Senate to make a determination of whether to approve or disapprove. I believe it's a disapproval process. But because of the questions raised, I will support the bill with reservations.

"Thank you."

Senator Levin then said:

"Could I request an 'end of calendar' for this item?"

By unanimous consent, action on Stand. Com. Rep. No. 1481 and H.B. No. 806, H.D. 2, S.D. 2 was deferred to the end of the calendar.

Stand. Com. Rep. No. 1482 (H.B. No. 1018, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1482 be adopted and H.B. No. 1018, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Sakamoto rose to speak on the measure with reservations and said:

"Mr. President, I rise to speak in support with reservations.

"Mr. President, I agree with the intent to help people have homes, but I have grave concern with the bill because of the potential adverse impact to the owners of these federally assisted rental housing projects. With all of these caveats imposed on the owners, such as the right of first refusal to the tenant association and to provide a one-year notice for any intent to terminate a subsidy contract, I dare say there'll be very little desire or incentive of developers to take the financial risks to provide rental units, homes, for many people needing them.

"So, is it good public policy to benefit having 20 years of affordable units provided by the owners of a building, then changing the rules on the owners? For this reason, I vote with reservations."

Senators Slom and Anderson requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator M. Ige then stated:

"Mr. President, may the words of Senator Sakamoto be entered into the Journal as though they were my own, and I will be voting 'W/R.'"

The Chair so ordered.

Senator Iwase then requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Tam rose to speak in support of the measure and said:

"Mr. President, I speak in favor of this bill.

"I thank you for the concerns of my colleagues, but just to alleviate any misunderstanding, all we're doing is being consistent with the federal government in providing one-year notice.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1482 was adopted and H.B. No. 1018, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1483 (H.B. No. 1035, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1483 was adopted and H.B. No. 1035, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1489 (H.B. No. 252, H.D. 3, S.D. 2):

Senator Kanno moved that Stand. Com. Rep. No. 1489 be adopted and H.B. No. 252, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak on the measure with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"Gosh, you know we've been discussing this bill before I got here and we're still discussing this bill. And I thought we had an agreement on this bill. All the parties seem to be in agreement. They worked very hard together, both private sector educational institutions and public sector and the state government. And then there were some changes made to the bill late on that caused reason for concern.

"So, I will support the concept. We certainly don't want diploma mills in our State, but on the other hand, we don't want to squelch any new technology or additional educational choices and opportunities for our residents and citizens.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1489 was adopted and H.B. No. 252, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEGREE GRANTING INSTITUTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 997, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 997, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MONEY LAUNDERING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1338, H.D. 1:

Senator Tam moved that H.B. No. 1338, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Matsuura.

Senator Sakamoto, rising in opposition to the measure, then stated:

"Mr. President, I rise to speak in opposition.

"This measure limits the general contractor's retention to 5 percent, Mr. President, and there's voluminous testimony on both sides of the measure, and I feel strongly that many people do not understand retainage as used in the construction industry.

"Currently, in the marketplace the standard practice is 10 percent, and even then, general contractors are often forced to pay out-of-pocket when a subcontractor does not satisfactorily perform a job. So, retention and bonding are existing tools to assure that a taxpayer in this State receives a quality product in a timely fashion.

"This measure, if moved forward, removes public safeguards and allows government to interfere with contractual obligations between general contractors and subcontractors.

"Now let's say, Mr. President or anyone here, you hired a general contractor to renovate your kitchen for \$20,000. And being concerned -- you want to be assured that the work is completed, that all the bills are paid, that you don't get a mechanic's lien or you don't have somebody asking you for the money later on -- you ask your general contractor, 'So how can you assure me that the work will be done? How can you assure me that my plumber won't come two months later saying, pay me? So the general contractor says, 'Well, you could retain some of the money. You could retain part of what you owe me.' The general contractor also says, 'You could ask for a bond, a performance bond, that an insurance company will be behind to assure that the work will be completed. In addition, you can ask for a payment bond that payments will be made to assure that you won't have to pay two times, that the insurance company will pay.' So you and the general contractor agree that you, the owner, can retain money; that you, the owner, shall have a performance bond; that you, the owner, shall have a payment bond. And who are all these protections with? The general contractor. So you have this assurance.

"Now, the general contractor has to deal with his subcontractors -- the plumber that doesn't finish or doesn't provide what's correct, and the general contractor has to correct that. The general contractor has a subcontract with his subs. They agree on that relationship and it's usually a 10 percent retainage and usually no bond. Many subs in our State cannot bond.

"Finally, Mr. President, let me read part of our Department of Accounting and General Services testimony. This is dated April 5:

'The concern we have regarding the regulation of subcontractors, certainly DAGS contracts only with the general contractor. All responsibility for the success of the project rests with the general contractor. If the State starts to regulate subcontractors, there may be repercussions such that the State may be held responsible to resolve all disputes between the contractor and the subcontractor. This would be a heavy burden that could affect the timely completion of many projects.'

"So for those reasons, Mr. President, I'm voting 'no.'"

Senator Chumbley also rose in opposition to the measure and stated:

"Mr. President, I rise to speak in opposition to this measure.

"Colleagues, this is a House draft. This bill is going to go directly up to the Governor, so I think you need to be very thoughtful about this proposal. This bill deals with the retainage issue, and right now the State has a contractual obligation to the general contractor and not to the subcontractor. With this bill, the State is putting themselves in a new mandated relationship with the subs. And I'm not sure we really want to do that, Mr. President.

"Some of the problems that the generals have been sharing with me about the retainage include the issue of past performance of a sub where it may have been poor, so they retain more money to make sure that they can cover the work that the general must go back and do. Subs have not been paying their employees properly in some cases -- for example, the Davis-Bacon obligations -- or they've not been paying their suppliers or generals or paying the suppliers so the generals retain a higher percentage for the risk that the subs put them in.

"Also, some of the subs are not paying the trust funds as they are obligated to do. Those trust funds are not audited but maybe once every six months to a year. So therefore, the subs are running out on their obligations to some of the trust funds.

"Mr. President, this measure appears to be a solution looking for a problem, and I urge all my colleagues to reject this bill."

Senator Tam rose to support of the measure as follows:

"Mr. President and fellow colleagues, I speak in favor of this bill.

"Let me point out some points in terms of this bill. First of all, it does not involve in terms of private funds. It involves state funds. Secondly, the concern is the misuse of government funds, basically by the general contractor when he pays in terms of the subcontractor. Thirdly, the State retains 5 percent from the general contractors. Therefore the general contractor shall retain no more than 5 percent to the subcontractor in the use of state funds.

"Also, if I may address in terms of concern, if the general contractor wants to make sure that the work is done properly by the subcontractor and if I were a general contractor, I would bond my subcontractor. If the general contractor does not want to bond the subcontractor because he or she wants to make more money, that's their fault.

"Thank you."

Senator Sakamoto rose again in opposition and said:

"Mr. President, I think people in the industry, generals and subs, know about bonding. Bonding is not to be taken lightly. It's a financial responsibility tool.

"The reason why many subs are subs and not generals is that many of them cannot get a bond, so they work as subcontractors. To lightly say that, well, why don't the generals just bond subs? The subcontractor bond, many times, costs 2 or maybe 5 percent.

"Now, if all of you were subcontractors to me, a general contractor, and I said, 'Okay, all 24 of you go get bonds. Go pay the insurance company in Chicago, in Seattle, wherever. Pay them your 5 percent and I'll hire you, or work with me the way I work with my private industry clients. We'll do 10 percent retainage, or if you agree, maybe we'll do something

else, and in the end you get all your money.' Why should we say, paying 5 percent to somebody, someplace else, some insurance company is going to solve our problems? You've got to understand this industry. You've got to understand what bonding is. And in the real world, in this State, if you're a representative of the subcontractors here, probably 20 percent of you can get a bond on your own with the right rates. Most of you would have to go look for somebody else to help you get that bond."

Senator Inouye then stated:

"Mr. President, in light of the discussion here this morning, please register a 'no' vote for me."

Senator Anderson rose to speak with reservations on the measure as follows:

"Mr. President, I listened to everyone as much as possible, and what Senator Tam said made me look at the bill and he's right. It does say 'public contracts.' Before the representatives who were voting 'no' in the back of me . . . I have reservations, I'm sorry.

"I have bid in the past. I think the problem with most people is there wasn't a contractor, sub or general, who even entered my office. It's because I do bid or have bid in the past and I understand exactly what he's saying. But I have reservations because both sides are right. There have been contractors who have not paid their subs accordingly and there are subcontractors who have not fulfilled their obligations. So that's why I have reservations.

"But I think that it's important that if people want you to vote on a particular measure, they darn well better talk to you. Otherwise, it's very hard for us to come up with, 'I'm 100 percent behind you or I don't support you.' And it's great. I was just accused the other day because it just so happened that I was a swing vote, I guess you would call it, and when I voted 'no,' everybody and his brother said, 'It's you.' There's only two Republicans. But when it failed, it was my fault. If it passes, it doesn't make a darn. You're not worth very much, anyway. Your vote doesn't count. And that's what makes it so laughable. They don't come in to talk to you -- anyone. But when you vote, they take it very, very positively that you're against them. How the hell are you against them or for them, if they never talk to you.

"This bill is a very complicated one because it represents both sides of the story. That's why I've always said I've been for licensed contractors. I'm for people who are locally hired. I'm not interested in anything else. I'm not interested in who's right and who's wrong as far as a general and a sub.

"So I have reservations, very strongly, Mr. President, because they are both right. So, for those reasons, I will be going 'with reservations.'

"Thank you."

Senators Tanaka, Taniguchi, Buen, Chun Oakland, Matsunaga, Chun, D. Ige, Bunda and M. Ige requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 1338, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Chumbley, Inouye, Iwase, Sakamoto, Slom).

At 11:15 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:27 o'clock a.m.

H.B. No. 999, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 999, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ORGANIZED CRIME," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1502 (H.B. No. 133, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1502 be adopted and H.B. No. 133, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to support the measure with reservations as follows:

"Mr. President, I rise to speak in favor of the bill with reservations.

"Act 168, last year, was a landmark piece of legislation -- the small business reform and flexibility act -- and it was due to the efforts of a great many people in the small business community. I notice that Ms. Betty Tatum of NFIB is here today. She had a leading role to play in that bill. The act was recognized nationally. The State is being used as a model. What's wrong with this picture? We haven't done anything. The bill was enacted into law in July of last year and there were some specific provisions made for a council to be appointed. It has not.

"The key provision in this bill is the small business defender position, which the Legislature took great pride in. However, no small business defender has been appointed. No office has been established. No appropriations have been made. And last year we saw that the Office of the Ombudsman did not want the position there. And then we saw jockeying between the House and the Senate for where the position was going to go and who's going to appoint that person. Then the Governor's Office got involved in it.

"And now we've evolved to this bill here. This bill, besides having a defective date of July 1, 1801, also takes the position now out of the Legislature, and puts the position within the Department of Commerce and Consumer Affairs, which is contrary to what we said and what we said we wanted to do, and that is to have legislative intent to show that we were in favor of small business. In addition, there is no appropriation amount. There's no specifics on how the defender position is going to be selected. And the idea that it's taken from the Legislature and given to DCCA means that DCCA will have both the selection process and also the right of appropriation and salary.

"So, while I support, certainly, the measure and we applaud the things that were done, I think that too often, after the applause is over and after people start reading the fine print, we find out that we really haven't done that much after all. And I would urge my colleagues that when we go into conference to make sure that we get back to the original intent of those small business people that worked so hard and so long on this process, and we fund the position and get on with it without delay.

"Thank you, Mr. President."

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1502 was adopted and H.B. No. 133, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO FUND THE SMALL BUSINESS DEFENDER POSITION

AND OTHER SUPPORT PERSONNEL ESTABLISHED UNDER ACT 168, SESSION LAWS OF HAWAII 1998," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1507 (H.B. No. 532, H.D. 3, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1507 be adopted and H.B. No. 532, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak with reservations on the measure and stated:

"Mr. President, I rise to speak for the bill with reservations.

"It's like so many other things that we talk about. It seems like such a simple thing -- gender equity. Who, in fact, can be opposed to gender equity? And the answer is no one could be or should be.

"Secondly, we find that we have dragged our feet for many years now in terms of high school athletics. We have federal rules which govern college athletics and we have federal rules which also govern high school athletics, as well. But somehow we found that one gender, particularly young female athletes, has been left behind, and things have not been done in terms of giving them equal access to sports, recognizing their abilities, making it easier for them in terms of qualification for scholarships because of scheduling conflicts and everything else.

"So, the simple matter seems to be, pass a law and say we will have gender equity. The problem is that if we're really talking about gender equity, it goes far beyond this bill. And it goes far beyond just proclaiming that we're all in favor of it, and I think that we should all be aware that what we're doing and what we're supporting in this bill means that we will have a continual financial support for changing existing athletic fields, for purchasing probably more land, for adding more staff, for doing the things that have to be done to truly bring gender equity.

"As I said, I speak in favor of this bill, but I want my colleagues and I want the public to understand that just by saying that we're for gender equity is not going to bring it about, and it is going to cost us a great deal more in the future.

"Thank you."

Senator Anderson also rose to speak on the measure with reservations and said:

"Mr. President, I'm going with reservations, but when we went over this bill originally, I even asked them what's the need for it. My understanding is we already have gender equity -- girls and boys are wrestling, they play soccer, they do other things together. But it was my understanding in trying to get more information that we should be offering more, say, athletic responsibilities to women. We should be making sure that they do get the scholarships, making sure that they are in equity with the men. And that's what this bill is all about. It's not who's participating on different teams. It's to make sure that there's going to be jobs provided at equal pay and making sure that they're going to be looked upon as equals to the men.

"But I did have reservations on even needing this bill. I would hope that we could have spelled it out so everybody would know what they're voting for, so we're not in any way hampered by thinking we're voting for one thing when in reality it's to try to do something in the future.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1507 was adopted and H.B. No. 532, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GENDER EQUITY IN SPORTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1508 (H.B. No. 634, H.D. 1, S.D. 1):

Senator Levin moved that Stand. Com. Rep. No. 1508 be adopted and H.B. No. 634, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Slom rose to speak in support of the measure with reservations as follows:

"Mr. President, I rise to speak in support of the bill with reservations.

"Certainly, we, in the past, present and I'm sure in the future will be recognizing all groups that have come to Hawaii and made their marks and made many contributions. And the 100th anniversary of the Puerto Rican arrivals is worthy of celebration. But I'm a little curious as to why this bill, unlike bills that we've had in the past celebrating the arrival of the Japanese, the Chinese, the Okinawans and everyone else doesn't speak really to that, because in this bill we have a fund created to be known as the 'ethnic celebration trust fund.'

"Now, every other fund, every other appropriation that we've passed here has been very specific to the people and to the culture that has been represented. I don't know why this doesn't say for the Puerto Rican arrival celebration fund or something else, or why it has suddenly become the 'ethnic celebration trust fund.' That's number one. Number two, of course, it is a blank amount so we don't know how much is planned and that's not good fiscal policy.

"So I will support the intent, but with reservations.

"Thank you."

Senator Anderson rose to speak with reservations as follows:

"Reservations, and again I'll ask if the chairman or whoever has an idea on what we are looking at in dollars and cents, if we were just to support the Puerto Rican celebration of the centennial."

Senator Inouye responded:

"Mr. President, I'll be happy to respond. Would you state your question again."

Senator Anderson inquired:

"I'd like to know, rather than establishing a commission, I'd like to know what the cost would be to celebrate the centennial of the Puerto Rican community."

Senator Inouye replied:

"I believe the request is for \$100,000, the same as the Okinawan festival and those in the past."

Senator Anderson continued:

"If I might, Mr. President, I do support this, but I do remember when we were in the House, we had a centennial for the Norwegians, the Scandinavians -- \$30,000 and they had wanted a one-time only. And it was killed by this administration today who took it away when they were in charge of Finance or Ways and Means because I believe he was in the Senate. The problem that I had at that time is every one of us who are made up of different ethnic backgrounds, I think,

is very proud that we can celebrate our centennial. At that time when it was killed, we were told, who really cares, it's only a bunch of haoles anyway. That's the kind of attitude that we had. I would never go against a centennial because of an ethnic 'unliking' if you would like to say that, or discrimination of some type.

"I don't know if we have to really establish a commission, but I'd like to say that I'm very happy that we're going to celebrate the centennial of the Puerto Ricans. I have a grandson who's part Puerto Rican. So I would like to let you know that most of us are made up of a whole bunch of different ethnic backgrounds and to go against any ethnic background because of a personal problem that you have with an individual, I think, is wrong. So for that reason, I would hope all of my colleagues will vote for that in the spirit of the centennial for an ethnic group that well deserves it.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1508 was adopted and H.B. No. 634, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO CELEBRATE THE ONE-HUNDREDTH ANNIVERSARY OF THE ARRIVAL OF THE PUERTO RICANS TO HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fukunaga).

Stand. Com. Rep. No. 1509 (H.B. No. 855, H.D. 1, S.D. 1):

On motion by Senator Levin, seconded by Senator Buen and carried, Stand. Com. Rep. No. 1509 was adopted and H.B. No. 855, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Fukunaga).

Stand. Com. Rep. No. 1510 (H.B. No. 1088, H.D. 2, S.D. 2):

Senator Levin moved that Stand. Com. Rep. No. 1510 be adopted and H.B. No. 1088, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senators Bunda and Kawamoto requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1510 was adopted and H.B. No. 1088, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL ATTENDANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Chun Oakland, Iwase, Kanno, Slom, Tanaka). Excused, 1 (Fukunaga).

Stand. Com. Rep. No. 1512 (H.B. No. 1198, H.D. 1, S.D. 1):

Senator Levin moved that Stand. Com. Rep. No. 1512 be adopted and H.B. No. 1198, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Slom rose in opposition to the measure as follows:

"Mr. President, I rise to speak against the bill.

"Yet again, this is yet another special fund that we're creating. I think it's poor fiscal policy. I'll vote 'no.'"

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1512 was adopted and H.B. No. 1198, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTEGRATED TAX INFORMATION MANAGEMENT

SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Fukunaga).

Stand. Com. Rep. No. 1513 (H.B. No. 1637, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1513 be adopted and H.B. No. 1637, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Iwase requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Anderson spoke with reservations on the measure as follows:

"Mr. President, I'm going to have reservations on this particular measure and that's because we're going to allow tour buses that are not up to standard for safety.

"Years back when you had buses that transported children back and forth, be it private or not (Kamehameha Schools for instance was painted blue and white; Punahou was buff and blue), we had numerous pre-school buses that had little children on them or nursery rhymes or whatever, and they would be able to tell their children which buses to get on. In order for us to get federal funding, we had to bring all of those buses, including those we had already contracted with, Gomes and others, up to standard. That meant that all of the buses had to be reinforced. They all had to be painted yellow. They had to come up to a standard of safety for our children.

"This bill says minimum safety standards such as we have in the City and County. Those are the reasons that I have some real concerns. I think that what we're looking at is trying to be expedient in getting children back and forth, one way or the other. But we're not looking at the safety of our children who should be first and foremost. So I have reservations and I hope that when we go into committee, you'd be thinking of what's happening to the type of safety that you want and to see if we do have any buses, tour buses, that have the standards that we're looking for.

"Thank you very much, Mr. President."

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1513 was adopted and H.B. No. 1637, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUSES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1514 (H.B. No. 1660, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1514 was adopted and H.B. No. 1660, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (M. Ige).

Stand. Com. Rep. No. 1518 (H.B. No. 1146, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1518 be adopted and H.B. No. 1146, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the measure and said:

"Mr. President, I rise to speak against the bill.

"We're raising the fees here, substantially. We're also selectively exempting certain groups of people. I think that this is more of a revenue enhancement measure than trying to pay back the actual cost of duplicating these records. No, please."

Senator Iwase requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1518 was adopted and H.B. No. 1146, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO VITAL RECORD FEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1520 (H.B. No. 1663, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1520 was adopted and H.B. No. 1663, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1521 (H.B. No. 157, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1521 was adopted and H.B. No. 157, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1522 (H.B. No. 1450, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1522 be adopted and H.B. No. 1450, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1522 was adopted and H.B. No. 1450, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1523 (H.B. No. 1454, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1523 be adopted and H.B. No. 1454, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak on the measure with reservations and stated:

"I rise in support with reservations.

"While the bill is basically a good bill in that it has a blanket uniform \$100 fee for probates, it also adds and increases additional fees for court usage. So I have reservations.

"Thank you."

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1523 was adopted and H.B. No. 1454, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1524 (H.B. No. 1471, H.D. 1, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1524 be adopted and H.B. No. 1471, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak in opposition to the measure as follows:

"Mr. President, I rise to speak against this bill.

"Unlike some of the press that was given recently to the activities of the Office of Elections and the Elections Appointment Review Panel, I'm not convinced that they've done the best job they could, nor that we have the best people that we could. And I'm certainly not convinced that we have any oversight whatsoever. While I was not a firm believer in having the elections process in the Office of the Lt. Governor, at least then we knew where it was. There was access and there was oversight.

"The vote, I think last week, to approve the Elections Officer, again by strictly party line votes, indicates to me that we have very serious problems with this process, and that the people of this State cannot rest assured that their voting process is in the best possible hands. So I cast a 'no' vote.

"Thank you."

Senator Iwase rose in support of the measure with reservations:

"Mr. President, I'm rising to speak in support of the bill with reservations.

"Mr. President, the bill would create or expand the present panel from an appointment panel to an appointment and review panel to oversee elections, in general, and the conduct of the Chief Elections Officer. The issue is really one of accountability and credibility in the conduct of the elections. And as I have earlier stated, I do believe that we should consider restoring the election responsibility with the Office of the Lt. Governor. I believe an elected official is much more sensitive and responsive to public concerns, much more sensitive and responsive to the concept that you do not conduct bad elections, and that you have to restore or retain people's faith and confidence in the election process.

"I understand there's a resolution before this body that would undertake this review about restoring it to the Lt. Governor's Office. I hope that passes. I do not think, however, that elevating a committee to oversight is the way to go. There's an old adage that 'a camel is a horse designed by a committee,' and I don't think elections are camels and I think it's very important. And I think we ought to have accountability with one individual.

"Thank you."

Senators Hanabusa and Sakamoto requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1524 was adopted and H.B. No. 1471, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1525 (H.B. No. 1145, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1525 be adopted and H.B. No. 1145, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Chun rose in support of the measure with reservations as follows:

"Mr. President, I stand in support of this measure with reservations.

"Mr. President, as we found out during the committee hearing on this bill, there is no emergency. The monies to become due for emergency medical services will become due, if any, after this current fiscal year. If there is going to be an appropriation to handle the additional sums for collective bargaining raises, that will be made effective the next fiscal year, fiscal year 2000.

"So, this bill is really not needed. And I think that by going through this kind of exercise, I think we're fooling ourselves. But I stand in support because an appropriation needs to be made. I believe, in conference, that kind of defect can be taken care of.

"Thank you."

Senator Hanabusa requested a conflict ruling as follows:

"Mr. President, I request a conflict ruling from the Chair."

The Chair responded:

"Please state your potential conflict."

Senator Hanabusa continued:

"I represent the Maui Paramedics Association which would be the employees who may receive a pay raise."

The Chair ruled that Senator Hanabusa was not in conflict.

Senators Slom, M. Ige and Buen requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1525 was adopted and H.B. No. 1145, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR EMERGENCY MEDICAL SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 71, H.D. 2, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 71, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1497, H.D. 1, S.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, H.B. No. 1497, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1531 (H.B. No. 1409, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1531 was adopted and H.B. No. 1409, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1534 (H.B. No. 139, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1534 be adopted and H.B. No. 139, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Kawamoto rose in support of the measure as follows:

"Mr. President, I rise to speak in favor of this bill.

"Mr. President, first, I would like to apologize to my colleagues and you for making you vote on three similar bills today. (Laughter.) But I also would like to say that all of these bills have a different mission addressing three different concerns with one bottom line of keeping profits and wages generated in Hawaii remain in Hawaii to enhance our economy.

"Mr. President, with the passage of these bills, I guarantee you and the people of Hawaii that (1) state revenues will go up; (2) our unemployment rate will go down, especially in the construction industry; (3) people's confidence will go up; and (4) we will be in a better position to take care of all the social services and educational concerns. It would be like the 80's and early 90's again.

"I remember not too long ago, there was a time when, per capita, Hawaii had the highest husband and wife working families, and small businesses and restaurants were flourishing throughout our communities. Mr. President, these bills will bring us back to those flourishing times.

"Specifically, H.B. No. 139, H.D. 1, S.D. 1, addresses federal and military contracts by providing the definition of 'state resident' which is extremely important because the current Public Law 8078, since 1987 states that when Alaska and Hawaii's unemployment rate goes higher than the national average, which Hawaii's unemployment rate has been since 1994, defense and other federal jobs would go to the 'state resident.'

"Unfortunately, Mr. President, like our Senior Senator Inouye indicated in 1998, this law was never implemented the way it was intended to because Hawaii's labor laws did not clearly define 'state resident.' With this lack of definition, all the military agencies -- Army, Navy, Air Force and Marines -- used their own definitions and thereby the discrepancy of percentage of work was given to state residents by these agencies.

"This lack of definition opened the door for mainland based contractors with their other state employees to take jobs that rightfully should have gone to truly state residents as defined in this bill. When this bill is passed, we will ask the military agencies to honor our definition of 'state resident.'

"Mr. President, this bill also provides the definition of what constitutes a state contractor and subcontractor. This bill provides state subcontractors with a GET exemption upon receiving a military and federal subcontract.

"We further provided enabling legislation whereby the Governor, our congressional delegation, and component Commanders in Hawaii, upon assessment among all parties,

agree to implement project labor agreements (PLAs) with federal or military construction projects in the best interest of the military and the U.S. government. Project labor agreements provide on-time, on-budget project accountability, quality work force, and quality work. Project labor agreements have been used successfully on Hoover Dam, Disney World, Boston Harbor, and many more projects across the country. One suggested project for PLAs in Hawaii would be the Ford Island development or parts thereof.

"Mr. President, President Clinton through a memorandum suggested the use of project labor agreements by the military and all other federal agencies:

"Mr. President, not only do we need the Senate's resounding vote of confidence, but we need each Senator, who believes like we do, to talk to our colleagues in the House and see if we can pass this bill to help our economy.

"All we need to do is use what's coming to Hawaii in the next few years, about \$350 to \$400 million of construction dollars per year. We just need to change a few policies and do what is necessary to get Hawaii's state contractors a share of the military and other federal construction contracts. We cannot stand and do nothing and be status quo, like we have in the past 4-5 years, losing 12,000 jobs and seeing our construction industry take a nose-dive after receiving \$3.8 billion with \$2.2 billion in construction renovation and building housing and barracks.

"As my fellow colleagues here have said and some of you have expressed, we cannot be labeled a do-nothing Legislature. Well, my friends, by passing these bills we will be doing something in positioning ourselves to better utilize the millions of dollars coming to Hawaii in military and other federal construction jobs. I urge all my colleagues to vote 'aye' and send a strong message to our military counterparts and our Mainland contractors. We are going to fight for our fair share of the military and other federal construction projects here in Hawaii to help our people.

"Thank you."

Senator Slom rose in opposition to the measure as follows:

"Mr. President, I rise to speak in opposition to the bill.

"First of all, I do accept the apology offered from my colleague from God's country. And this is the first of his trilogy of bills. I think, however, that there's more demand for the Star Wars trilogy than the Kawamoto trilogy. (Laughter.)

"In any event, I think the good Senator with all his good intentions is trying to ride a dead horse and dead horses are hard to ride. Even if you change the jockey or you change the saddle, a dead horse is still a dead horse. If you give the dead horse artificial insemination or any kind of CPR, you still have a dead horse. (More laughter.) What we have here, Mr. President, is a dead horse.

"The bottom line is that this and the other bills that will follow calls for unionization, project labor agreements. That is what the bottom line is. The bottom line is not improving the economy. The bottom line is not doing what people are asking for. What they're asking for, they're not standing in line demanding to be part of PLA. They're demanding tax reduction. They're demanding regulatory reform. They're demanding that we do things positively. They're not demanding that we take away their choices because right now they have choices.

"Now, I know that my good colleague Senator has wax poetic about the 80's and I share his poetry because, of course, that was the time of Reagan and Bush and a much gentler, kinder era of trickle down economics, so I can understand why he'd want to go there. I don't understand why he wants to go to

the early 90's, the time of the Japanese bubble bursting and so forth and the rise of the Clintonians.

"But be that as it may, we are approaching the new millennium and the new millennium says that we have to be competitive, and we have to do things that the people that risked their time and effort and labor want us to do. And what they've told us to do is get our labor laws in line with the rest of the country, get our tax laws, get our regulations in line, and do these things and provide choices for people that want to work. They want to work; they want to stay in Hawaii. But we are taxing them to death and we're regulating them to death, and unfortunately, the bottom line on this bill is more regulations.

"So, do we want to have a do-nothing Legislature? Of course not. But there's only one thing worse than do nothing, and that is to do the wrong thing and do harm. And unfortunately, this bill, on balance, will do more harm than good.

"And I'll be very happy to help the good Senator with many things to bring jobs and economic opportunity, but dead horses should be buried.

"Thank you, Mr. President."

Senator Chun rose to speak in support of the measure and said:

"Mr. President, I stand in favor of this bill.

"Mr. President, I have not been an ardent supporter of project labor agreements. As some of you know, I voted against it the last time. However, on viewing this bill and going to committee hearings and finding out exactly what the details are, and talking with some of the people involved in project labor agreements, including the unions, I've come to know that there is a problem out there. In my discussions this morning, the problem is that there are out-of-state contractors bringing in workers from out of the state. These out-of-state contractors don't pay GET on their wages. They perform work that's out of their classification. They also avoid the prevailing wage laws from Hawaii because they bring them in from out of state and they're very difficult to track down. And these are some of the reasons why some of the proponents of the PLA believe that this bill is needed. I feel that those are problems. I haven't heard any discussions to show that those are not the problems.

"I support this bill not because it will solve those problems, but at least it will put to rest whether or not this methodology can be used to take care of those concerns. But what really disturbs me most is that even though these problems are out there, we're going to have to engage in all these machinations to find out ways to solve the problem when the simple way to solving the problem is to have the department whose job it is to oversee GET collections, to have departments to oversee whether or not people are performing out of their classifications, to have the departments to oversee whether or not people are actually paying prevailing wages to do their jobs.

"Oftentimes we're accused of a do-nothing Legislature, but I think the heart of the problem is that sometimes there is a do-nothing department, that they're busy doing other things rather than what they're supposed to be doing.

"And I've asked this question straight out to some of the people who came to talk to me this morning. I said, 'Well, I know these are problems. What's being done? Because everything you mention right now is against the law right now. What's happening? Why aren't we doing our job?' And they can't answer that question. And because they can't answer that question, bills like this keep on surfacing. We keep on adopting bills to protect the departments from having to do their jobs. And that's one basic reason why I oppose in general these project labor games because we're trying to solve the problems of the department. We're trying to protect them from not

having to do their jobs. I think the easiest way to do that, rather than think of bills like this and to have the Honorable Senator from Waipahu think of four different ways to get it done, is to force the departments to do their jobs.

"But going on to this specific bill, Mr. President, I'm supporting it because in the committee this bill was represented to me as reflected in the committee report that this bill specifically is only intended to address situations where there is a 100 percent federal project, a 100 percent federally funded on federal property. And this is the only situation in which this bill is intended to cover. It doesn't intend to cover any situation where there is a joint federal and state sharing of funding between general funds and federal funds. It's not intended to take situations where there are federal funds used on state property. This bill, according to the committee report and as discussed in the committee, is only intended to affect projects which are 100 percent federally funded and 100 percent on federal property.

"Now, I bring that out because also in the committee I've noticed that if that's the situation, if that's the intent of the bill, that there are some inconsistencies within the bill because if it is 100 percent federally funded on 100 percent federal property, then there are provisions in this bill, specifically in Part 3 of the bill, which covers project labor agreements that make reference to state law. As we all know, Mr. President, state law does not govern federal contracts; does not govern federal property; does not govern federal funds. And so I noted it in the committee that if this bill goes forward, those kinds of language changes need to be made. And it was assured to me by the Honorable Senator from Waipahu and the WAM Committee members that those changes or those considerations will be made in conference if it goes down there as far as the Senate is concerned.

"Mr. President, knowing the limitations of this bill, I think it is worthy of at least a study to see whether or not something like this on a 100 percent federally funded project on 100 percent federal property, where I believe from the Honorable Senator from Waipahu that most of the abuses are occurring, that a project labor agreement can at least ease the burden of our state departments and try to find out whether or not they can do their jobs better. But I believe with all of our posturing, with all of our discussions, with all of our debates, I think we should go on with the business of making our departments do their jobs better, rather than eating up our valuable time and resources to talk about bills like this on experimental. Rather than experimenting, we should actually work on doing what we do best and that is having the laws that we have on the books now, enforced.

"Thank you, Mr. President."

Senator Sakamoto rose in opposition to the measure and said:

"Mr. President, I rise to speak in opposition.

"I'm opposed to the project labor agreement part. I'm supportive of the 'state resident' definition, the exemption of GET on federal contracts. I think those parts will do a lot. Certainly, I'm not going to promise you, like the Senator from Waipahu has promised, but certainly, making local contractors -- union or not -- more competitive and using the provisions of a resident to deal with jobs, we really ought to be dealing with the jobs of our local residents. And there are local residents in our workforce, both working for signatory and not. We don't have a Hoover Dam; we don't have a Boston Harbor. If the bill purports to deal with federal contracts, as our Senator from Kauai has said, on federal lands, I think this really isn't a dead horse; it's an invisible horse, if that's the case. But since we're debating it, project labor agreements do not guarantee workers will be local residents. There are signatory members all over this country, signatory to the various unions.

"It doesn't guarantee anything. I want jobs for local residents, and if local residents do work, we don't want those who are not signatory to have to pay in benefits to trust funds for pensions, for health funds, etc., and these funds be swept into trust funds and the worker moves on to another job and he loses these benefits -- he, his family. That's not what we are about. So these bills discriminate against workers in our State who are not represented by a labor union, and don't want their funds deposited in union trust funds. Especially if they don't work there and become vested from the union standpoint, they would want these workers to stay in the union. But we're not here as a legislature to help unions sign up workers, Mr. President. That's their job and they can do that. We aren't here and we shouldn't be here to enforce that.

"And let's not increase the cost to the taxpayers of our State. The current procurement system is fair; is adequate; is working. Most of the jobs are not going to Mainland contractors at this point in time, Mr. President. We want the jobs for our local workers, though."

Senator Chumbley rose to speak against the measure as follows:

"Mr. President, I rise to speak in opposition to this measure.

"First, I do also want to accept the apology of our good Senator from Waipahu, and I hope he understands my apology when I vote 'no' all three times on PLAs. I do want to commend him for his persistence; I applaud that.

"I do want to believe that we can do something, but I just don't believe that this bill is going to achieve what it sets forth to do.

"It's unfortunate that I have to vote 'no' on a bill that does have a good component of it, and that's the exemption to the general excise tax for these contractors. I think that's a good provision of the bill. However, the definition of 'state resident,' although it's improved and it's no longer as onerous as it was in the past, one of my constituents, Steve Goodfellow, who owns Goodfellow Construction in Kihei called this morning and expressed concern about the definition of a 'domestic corporation' on page 5.

"Goodfellow Brothers is a company that has been in operation for 75 years. They've been headquartered in Hawaii for the last 25 years. I believe that they are incorporated and registered to do business in the State of Washington. But they've been here for 25 years. They've been providing jobs for hundreds of people throughout our State, and they're going to be affected by this bill, not only as a corporation, but also by the onerous requirement that if one or more of the employees, 100 percent of its employees have to be a state resident as defined by 'state resident.' And although this attempts to address the concerns where we have contractors who are receiving federal awards who come from out-of-state and bring out-of-state residents, I don't believe that this, as written, is going to be in the best interest of our state residents. It will have unintended consequences.

"Mr. President, Part III of the bill, I think, is the most egregious part. This is the part that again attempts to put into session laws -- not into statute -- the PLA provisions. Part III, page 7 through Part IV, page 11, articulates what the President had ordered through a presidential memo, and that's not you, Mr. President, it's President Clinton. In June of 1997, President Clinton issued a memorandum directing all federal agencies to issue procedures for the consideration of union only PLAs on federal construction projects. The memorandum was issued only after the President withdrew a draft executive order imposing more stringent union only requirements in the face of strong congressional opposition.

"Mr. President, there have been no studies demonstrating any need for union only PLAs for federal projects. There have been

no cost studies showing any savings likely to result from these PLAs. There have been no significant reported labor disruptions preventing or delaying federal projects in Hawaii. Construction workers on federal projects are already protected as to their wages and benefits by the Davis-Bacon Act and numerous other federal laws and regulations. Thus, this presidential memorandum and the agency procedures resulting therefrom, departs from the congressional mandated policy in favor of open competition expressed in the Competition and Contracting Act and the related provisions of the FAR with no justification whatsoever. This unwarranted federal initiative will certainly be challenged in court on its full implementation.

"Mr. President and colleagues, I again applaud the Senator from Waipahu for his efforts, but I just don't believe that this bill will end up providing for our State the intentions, and I urge all of you to vote 'no.'"

Senator Inouye rose to speak against the measure and stated:

"Mr. President, I wish to speak in opposition to this bill.

"I concur with the comments made by my colleagues from Moanalua and Salt Lake, and East Maui and North Kauai, and I apologize to my classmate and a hardworking Senator who has done much in the three bills, but I do want to register my comments with regard to the parts from my colleague from East Maui and North Kauai and I wish to register their comments as if they were my own into the Journal, Mr. President."

The Chair so ordered.

Senator Taniguchi then said:

"Mr. President, would you note my reservations on this bill, for the record. Thank you."

The Chair so ordered.

Senator Anderson rose in opposition and said:

"Mr. President, I will be voting 'no' on this particular measure.

"I'd like to make reference to all of those concerns that all of the Senators made, including the good Senator from Hawaii Kai, and I do applaud the Senator from Waipahu. But for the Majority Floor Leader's words where it's only on federal projects, it states here in Section 6 that to award these it would be the State procurement officer who would be given the authorization to do this. It's not just a full federal concern. And I did talk to the procurement officer, and he said the way the bills are written, he would have to follow the procurement laws; and yes, in fact it's exactly what Senator Sakamoto had said that it would take care of benefits that would probably already be on board that some of the contractors had. They would go into a project labor contract.

"For those concerns I am going 'no.' I normally have reservations and hope that we'll fix something up. We never fix anything, really. So I'm just going to vote 'no' this time and I apologize to my good friend because I know that he has been trying very, very hard to help our local people get jobs, especially in the construction industry. But everything that I've read and input that he would have gladly given me, we would have to re-write the whole bill. So, for those reasons I will be going 'no' Mr. President."

Senator D. Ige then said:

"Mr. President, I'd just like to note my reservations, please. Thank you."

The Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1534 was adopted and H.B. No. 139, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL CONSTRUCTION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 9 (Anderson, Buen, Chumbley, Inouye, Matsunaga, Matsuura, Sakamoto, Slom, Tanaka).

Stand. Com. Rep. No. 1535 (H.B. No. 1038, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1535 be adopted and H.B. No. 1038, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to support the measure with reservations as follows:

"Mr. President, I rise to support the bill with reservations.

"While I certainly support the idea of funding the collective bargaining agreements already made and negotiated, I take umbrage with the fact that we're also going to continue to include other executives, other officers, other people in government to give them a free ride, as well. I think we should honor our commitments with the negotiated contracts, but I don't think we should use this or any other measure to add on additional people to raise our cost.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1535 was adopted and H.B. No. 1038, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:11 o'clock p.m.

H.B. No. 990, H.D. 1, S.D. 1:

Senator Hanabusa moved that H.B. No. 990, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator M. Ige requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 990, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR LEGAL SERVICES FOR DEPARTMENT OF HAWAIIAN HOME LANDS INDIVIDUAL CLAIMS REVIEW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Buen).

H.B. No. 411, H.D. 1, S.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, H.B. No. 411, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Buen).

H.B. No. 150, H.D. 2, S.D. 1:

Senator D. Ige moved that H.B. No. 150, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator D. Ige rose in support of the measure and stated:

"Mr. President, I rise to speak in support of this measure.

"Mr. President, H.B. No. 150, S.D. 1, raises the bar on our public conversation about governance of the public school system. House bill 150 proposes to align the authority, resources and responsibility over our public school system with the Board of Education.

"Mr. President, the current system is clearly broken with no clear lines of accountability. House bill 150 proposes a constitutional amendment that would make the Board of Education a political subdivision unto themselves with no police power, but full control and authority over the personal income tax and the authority to raise the retail sales tax on tangible personal property, up to a maximum of one penny per dollar or one percent. The current personal income tax approximates the total amount of general funds that we currently spend for operations and debt service on the public school system.

"Additionally, we've added amendments to insure fiscal restraint of this new public subdivision. We've added an expenditure ceiling to insure that the rate of growth of the operating funds do not exceed the current CPI index. In addition, we've extended the bond ceiling to insure that this organization does not over-leverage itself.

"Clearly, Mr. President, our previous discussions of governance have really been superficial, focussing just on an appointed or elected Board. This measure before us aligns authority, resources and responsibilities to insure that the elected Board of Education is clearly accountable for the public school system. I truly believe that this is a beginning of a public conversation on governance. It really does give us the best opportunity, I believe, to insure that those who govern the public schools are truly accountable.

"I urge all of my colleagues to vote in support. Thank you."

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to the bill.

"We can talk about accountability. We can talk about governance. We can talk about educational improvement. But what we're talking about in this bill is a tax increase pure and simple. It also is a bill that would strip away even more protections from the resident citizen taxpayers of this State.

"The idea that we would authorize the wholesale transfer of our personal income tax, now stated at \$1.1 billion, to the Department of Education, thus denies the State Legislature the ability to try to utilize the income tax program for such things as incentives for new and existing industries, for economic development and economic policy. What we're doing is transferring that to the Department of Education/Board of Education.

"There's several problems with that, not the least of which are the reports that have been done by the Legislative Auditor criticizing the policies and lack of fiscal responsibility and fiscal restraint of the Department of Education. If they can't handle their finances now, what are they going to do when they have a tremendous increase and a largess from more tax monies -- the \$1.1 billion plus.

"More troubling, Mr. President, however, is the ability to give them the taxing power to institute yet another tax, a sales tax. You know, people talk about getting the message from last year's election. Apparently, nobody's gotten the message, at

least in the legislative body. Our constituents, the public out there, think we're fools. Here we are, the highest taxed state in the nation; here we are, losing people every day, and what are we doing? We're debating increasing taxes and giving new taxing authority to the Department of Education/Board of Education.

"Now, if my esteemed colleague thinks that just because we limit that to 1 percent that that's where the tax will stay, my colleague is respectfully mistaken. Any time we talk about limiting taxes and giving it to a tax authority, we know that the taxes go one direction and that direction is up. In addition to that, if the tax goes up or even at 1 percent -- and we're talking about several hundred million dollars -- we're talking about this in addition to the general excise tax, in addition to the corporate income tax, in addition to real property tax.

"There was an attempt to draw a comparison between this bill and what happens in the Mainland. But we can't make a comparison between here and the Mainland for one very simple reason and that is that we are the only state in the Union that has a single district, state-wide school district; the only state in the Union where education is not a local function but it is a state function.

"Now, I know that years ago we talked about making our educational system second to none, and more than the people in Kosovo, I worry about the people in 'none' because if we're second to none, we're in big trouble. We haven't improved education and there's no indication that more money and lack of fiscal oversight is going to improve that education further.

"I recommend to my colleagues the report done by ALEC, the American Legislative Exchange Council, in January of this year that everyone received, and that report said very clearly there is no, no direct correlation between the amount of money spent on education and the quality of education. We have standards, but we don't enforce them. We have a bar, but we are operating below the bar. We don't reward excellence; we reward mediocrity. We try to pass people along. We try to allow them to get by and we make excuses.

"So, giving additional tax powers and government authority and more bureaucracy to the Board of Education and the Department of Education, I don't think is going to solve our problems. And the Superintendent of Education, Dr. LeMahieu, was very hard pressed in our last public hearing to tell us exactly how there was going to be improvement made in education. He couldn't do it. He was just very glad, as are a number of other agencies and institutions, that they would have more money. But more money doesn't make it better, Mr. President.

"Also, if the State loses the \$1.1 billion in personal income, then one of two things is likely to happen -- either the corporate income tax, which we keep talking about that we're going to reduce or eliminate to stimulate business, would be increased, or the general excise would be increased; or the State would look for yet another source of revenue, because we aren't looking for ways of cutting expenditures. We're always looking for that magic revenue enhancement.

"So I think that we have a real problem here, and the problem is not one of lack of money. It is one of lack of leadership and responsibility. Creating a political subdivision which is separate unto itself, I don't think is going to help us, because that would now give us five branches of government -- the three traditional branches of government, OHA, and a new political subdivision called the BOE/DOE.

"What we really need, Mr. President, is decentralization. We need more input by parents, by teachers and by the students. And this bill, in addition to sapping everyone of additional financial resources, is going to make it even separate, more separate, the idea of supporting the educational system and having a say in it.

"We are unlike any other state also in that we are the only state in the Union that has neither statewide initiative, referendum or recall. In the other states where education is a local mandate, the taxpayers in a particular county, or city, or school district, or municipality have to vote on whether or not they have the wherewithal to afford the tax increase or the bond issue, and that gives them a direct input into the governance and the quality of education.

"I can't see by this bill, Mr. President, that we've done anything other than to allow our taxes to increase, our spending to increase, our debt to increase, and this to me represents an abdication of the Legislature's responsibility if we want to continue to have statewide education.

"Thank you."

Senator Iwase rose in opposition to the measure and said:

"Mr. President, I'm rising to speak in opposition to the bill.

"First of all, Mr. President, I want to thank you for putting forth a bill that would focus our attention again on the importance of education and the need for, at times, maybe radical reforms. However, I would like to echo the comments of the previous speaker, the Senator from Hawaii Kai, with respect to taxes.

"I'm opposing this bill because it does create a new taxing authority; it creates a new tax; and thirdly (and I think it's important to understand and remember what was told to us at the hearing), the GET tax and the income tax, the revenues generated by those two taxes represent 80 percent of the monies that go into the general fund -- 80 percent of the monies. And with that money, we take care of all of the education and other programs in the State of Hawaii, and what we'd be doing is sending away the income tax.

"And as it was also told to us at the hearing, when we are imposing an income tax or taxes on the people of this State, we are responsible to take into account a broad category of issues, because this is not just something that should be focussed on just education. It's an impact on small business, it's an impact on jobs, it's an impact on Hawaii's business image and the kind of revenues we do need to take care of all the other programs that we have to fund -- welfare, the University of Hawaii. And so therefore, because of the need to consider a broad range of issues, as well as the implications of a taxing authority, taxing powers should remain with the Legislature and not with an agency that would raise taxes for one purpose only, which would be the Board of Education.

"I also pointed out at the hearing, Mr. President, that this bill, because it was raised at this late date, would obviously not pass this session. And I welcome the debate, as the Education chair mentioned, the debate and discussion that will occur on this bill, but I believe that we should not limit ourselves to a bill so controversial in the taxing aspect that we are going to lose the discussion about the kinds of reforms that should be undertaken by the Department of Education, the Board of Education, the Governor, and the Legislature, and that we should therefore include into this bill other options that were proposed in the past.

"I mentioned specifically at the hearing this study done by the 1992 Task Force on Educational Governance. We authorized this task force. We created this task force by Act 332 in 1991. We told this task force of 15 members, you go out and conduct hearings and you study the problems, the broad range of problems, and you come back and report to us. And they did do so in 1992. And that task force was composed of a number of people throughout a broad and diverse cross section of this community -- seven months of study, studies and hearings throughout this State, public hearings in communities

throughout this State -- and they came forward with this proposal.

"I'm glad that the Chair of the Education Committee cited this report in the committee report saying that these things should be considered, but I would hope and what I had asked and what I hope still can happen is that the proposals set forth by the task force would be included in this bill to be discussed and to be looked at and to be reviewed and debated, because they include reforms that are needed. They touched upon selection of the school staff. They touched upon the structure of the Board of Education, and they touched upon dedicating a percent of the funds from the general funds to education. That is accountability. That is resource. That is responsibility. And that was something that was recommended to us by a body that we created in 1991, presented us with a study, and unfortunately this study sat on the shelf. We have implemented some of it. We need to implement more of it.

"And I would hope, Mr. President, with all due respect to the proposal that is contained in this bill, that we not limit ourselves to just this proposal, because if we do, we are going to lose the debate on education. We are going to lose it to the debate over taxes.

"Thank you."

Senator Tam rose to support the bill and said:

"Mr. President, I speak in favor of this bill.

"Mr. President, I stand in favor of this bill. This bill is a positive, stimulating bill that needs to move along this legislative session. The details of this bill will become clear as all of the educational partners -- the educators, the Board of Education, the Governor, parents and Legislators -- work together on this bill. In fact, in my discussion with the Board of Education at the April 1, 1999, Board of Education meeting, the Board members generally favored the proposed legislation.

"I think it's too premature to fully criticize this bill. We need to bring the partners in to work on this proposal. This bill embraces the responsibilities of the elected Board of Education to that of Hawaii's voters.

"Thank you."

Senator Chun rose in support of the measure with reservations and said:

"Mr. President, I stand in favor of the bill with reservations.

"Mr. President, everybody agrees that the system is broke. We know that. They know that. The House knows that. The public knows that. The question is not whether it's broke. The question is what we're going to do to fix it and when we're going to fix it.

"The fix, Mr. President, is not money. The fix is not saying the more money we put into it the better the system is going to be. We've learned our lessons from that vicious cycle. The fix really is accountability, and I think everybody agrees with that. We need to bring accountability back into the schools. We don't bring accountability by putting more people in charge of the system. We bring accountability to the system when we limit the number of people in charge so that they know that the buck stops there.

"Also, Mr. President, this bill talks about the taxing authority and bringing the income tax here where testimony is submitted that really thinks that, that would not be a good idea to bring the income tax into the mix of how to bring accountability back into the schools.

"Unfortunately, Mr. President, this is the only bill there is. There is no other bill that talks about education and how to

improve it. There is no other mechanism or vehicle that we can use to continue discussion.

"If there's anything we've learned in the past, it is that silence really doesn't do anybody a favor. Ignoring problems does not make it go away, and putting something off to another year will not make it better. We need to open the dialogue to have a fix. We need to get people involved in these discussions. We need to get people to take notice that we as public leaders are willing to do something and put our ideas out and have them discussed and have them changed and be willing to say, 'Hey, I might not have the best answer but if you have a better one, come forward and talk about it.'

"We as public officials can't afford to be quiet. We have to get people involved. And by being quiet, we don't do that. By being quiet, we discourage involvement. By being quiet, we discourage people from looking at new ideas.

"And if I were to vote against this bill I think that would be just another sign that we're just going to take it safe and not do anything. And that's the last thing that I personally want to do, Mr. President. So I will be supporting this bill not because it is a perfect bill, not because I'm going to say that we thought about everything, but because this is the only vehicle that we have to continue this discussion to bring to the forefront the problems that we have with our school system. And Mr. President, I will support this bill because it will ensure that people will be heard and that we will not be quiet and that we will want to go forward.

"Thank you, Mr. President."

Senator Anderson rose in opposition to the measure and said:

"Mr. President, I voted twice against this bill and I'll vote against it again.

"I think what it is, is our inability to correct the out-of-control Department of Education by giving them taxing powers. And I'd like to read from the Committee chairmen themselves where it says, 'Your Committees find that after years of attempting to make the department of education fully responsible through lump sum budgeting, school-by-school budgeting, and school and community based management, it is necessary to take the last step toward autonomy by making the department of education a political subdivision with its own taxing powers.' All we're doing is circumventing the very laws that we have that give us a responsibility.

"I just heard the Majority Floor Leader say that we need to look at this and we need dialogue; we need reform. And I agree. We need good reform. We should have taken these measures long ago to reform the Department of Education -- not by taxing powers -- by making sure that the programs were good programs. Look who supports this bill, Mr. President -- 'University of Hawaii Professional Assembly, Hawaii State Teachers Association, Hawaii Government Employees Association Retirees Unit, Superintendent of Education, State Librarian, and three individuals.' The opposition was by State Representatives, Hawaii Congress of Parents, Teachers and Students. Those are the ones that realize that would just be giving the Board of Education the right to tax.

"And it's an emotional deal. We all have children and we want to make sure that they get the best education, but not by circumventing your responsibility and mine, but by making sure that our tax dollars are spent properly and that the teachers are going to be able to say we've got a ratio of 21 to 1 or whatever, not that we have students that we can't even count and the budget is not reflected to those other four or five. They have all kinds of problems in the Department of Education. And I haven't heard one Board of Education person. As I said earlier, they don't even come to your office anyway -- at least not to mine.

"I've spent years, two or three years as a voluntary person. I said to my chairman, if you want me, I'll go with your committee, so I volunteered for that committee. Most people didn't want it, and the reason being because not very many people go to your fund raiser if you're on that particular committee. But I thought it was important. We ran 5,000 books short on the Windward District and then Representative Charles Toguchi and I fought like hell to make sure that they got the books that they needed.

"So the problems aren't new. Your responsibilities aren't new. But reform is needed -- not taxing powers. That's why I'm going 'no,' Mr. President.

"Thank you very much."

Senator Sakamoto rose in support of the measure with reservations and said:

"Mr. President, I rise in support with reservations.

"The purpose of the bill is to amend the Constitution to provide clear accountability for the public schools and the Board of Education. Mr. President, I'm in favor of measures that benefit education, improve accountability, and certainly I believe as the Senator from South Kauai that the issue really is accountability. And I think once we deal with that, then we can look at funding mechanisms that will make sense.

"Thank you."

Senator Kanno rose in support of the measure as follows:

"Mr. President, I rise to speak in support of the measure.

"Mr. President, this bill provides the authority and oversight of our public schools by a single entity, and with that comes the accountability that is badly needed by our school system. When it comes to our schools, maintaining the status quo is unacceptable. If this bill is passed by the Legislature, it will be the voters of the State of Hawaii that will ultimately decide this issue through a vote in the November 2000 election.

"I urge my colleagues to support this measure. Thank you."

Senator Anderson then rose and said:

"May I have a slight rebuttal?"

"If I remember correctly, if they decide to ignore that particular measure when they go to vote, it will be counted as an 'aye.' When you say that taxpayers have a chance, why don't you really give them a chance. Why don't we change the Constitution that says the Superintendent will be appointed. That's reform. That's changing. Get rid of the Department of Education. We've been fighting with them for years. Decentralize them and that gives you folks a chance to vote for that individual. That's reform. That's looking at it positively.

"You know, you can't go ahead and say the voters are going to do this when, in fact, you change it so that their vote doesn't count if they don't want to vote on that particular measure. I've told you before, when people have not fully understood something, they'll say I'm going to leave this blank and let somebody else take care of it. But now it's counted as an 'aye.' That's ridiculous. They didn't vote for it because they didn't want it. They didn't know what to do with it in many cases. But you're going to say the voters are really given a chance when in fact even if they leave a vote blank because they are sick of us and they don't even want to get involved, it's going to be counted.

"Thank you very much, Mr. President."

Senator Matsuura rose and said:

"With reservations, please."

The Chair so ordered.

Senator Taniguchi rose to speak on the measure with reservations:

"Mr. President, I rise to speak with reservations on this bill.

"Mr. President, I am speaking because nobody has really expressed some of the reservations that I have about the bill. Initially, what I want to say is that I was first elected in 1980 and served my first session in 1981. My daughter was born in 1982, and she's been going to public schools since about 1986, 1987. She's gone to Noelani Elementary, to Stevenson, and now she's a junior at Roosevelt. I think to that extent, I've seen some of the process. I visit all the schools in my district. I try to do it at least once every year.

"Part of the problem that I see is that there is a lack of resources, and I think that in some ways this bill does try to address that. It tries to take a look at the kinds of resources that are available. With regard to governance, I'm not clear that the governance proposed will necessarily be better. I think it would be different, but I haven't been guaranteed that it's going to be better. And being a parent with two children in the public school system (my son is a 7th grader at Stevenson right now), I know we've got to try to deal with that, but a lot of us are dealing with it only on a very philosophical level. And I think for the parents and some of us whose kids do go to public schools, for us it's a matter of resources -- pure and simple. That's why I think there may be other ways of dealing with this. I would hope that we'll look at dealing with this in a more up-front way.

"I urge my colleagues to support this bill, because I think we need further discussion on it. Thank you."

Senator Nakata rose with reservations and said:

"Mr. President, I just want to have the comments of the Senator from Manoa registered as my own, and I'll be voting with reservations.

"Thank you."

The Chair so ordered.

Senator Buen then rose and said:

"Mr. President, I'll be voting with reservations. Thank you."

The Chair so ordered.

Senators Hanabusa and Inouye then requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator Bunda also rose with reservations and said:

"Mr. President, I rise to speak with some reservations on the measure.

"Mr. President, you first announced in your press release that we can no longer conduct business as usual when the future of our children is at stake. Mr. President, I believe this bill is business as usual. As usual, we don't have sufficient time to explore the ramifications of the proposal. As usual, we need critical information to make informed decisions. As usual, we are diverting our attention away from the real issues of educational governance and not just whether it's an appointed board or an elected board.

"Mr. President, while I feel that this particular measure deserves to stay alive and is a step in the right direction, I believe that the timetable is unrealistic on this particular measure. With the economy the way it is, we need to tackle all

of those hard funding decisions, demonstrating by our bold actions, our commitment to quality education.

"More importantly, Mr. President, I don't think we should be punting by creating another tax authority that shifts responsibility away from us. I think we should do the things that the people elected us to do and that is to legislate and not delegate.

"Thank you, Mr. President."

Senator Slom rose in opposition to the measure and said:

"Mr. President, additional comments in opposition.

"Well, I've heard my colleagues say that they want to keep this measure alive because it's the only measure there is. And one colleague said that we're going to have a great revelation in conference committee -- we don't know what that is, but it will be a revelation.

"The problem is we're asked to vote on things as they are and as we see them, whether they have blank dollar amounts or whether they say certain things or they don't say them. And what this bill says, what it screams is, we're going to raise your taxes some more! We're going to hurt you some more! We're going to destroy the business climate some more! That's what it says.

"My colleague the Majority Floor Leader wants us to speak up. He wants us to be heard. I hope we're being heard. We're going to raise your taxes! That's what this bill says now. And to the question, we don't have anything else? We have passed several good bills. Now, what happens to those good bills, we don't know, because that will be revealed to us also in the murky depths of the conference committees. Suppose all of those good bills fail and this is the only bill that passes this year. Would you like to look yourself in the mirror, to look at your kids (because my kids go to public schools also), to our friends and neighbors and say, 'Yes sir, I sure worked on education this year. I raised your taxes and your state debt some more.'

"And we're challenged, Mr. President, to think out of the box. Think out of the box? This is deep in the crevice of the box -- more taxes, more spending, more debt. You want to be out of the box? Abolish the DOE! You want to be out of the box? Get rid of the state-wide school district! You want to be out of the box? Let the parents and teachers and students run education in this community! That would be out of the box. But instead, no, we're going to leave it up to another branch of government. Actually, I'm kind of disappointed that we didn't leave the police powers there. I'd like to see the Superintendent with a badge and a gun walking around. But you know what? If we pass this, we'll give him a badge and a gun because they can forcibly take more of our resources.

"Our people can't afford this. And it has nothing to do with improving education. Why can't we get it? That's what education is all about -- to understand. And there is no relationship to more taxes, more pain and suffering and better quality education and accountability. So I would urge my colleagues, this is the bill right now -- this is what we have. I urge you to vote 'no.'

"Thank you."

Senator Iwase rose and stated:

"Mr. President, just also in rebuttal on two points that were raised.

"One, a statement was made about how we've engaged in a philosophical discussion on the educational issue. I don't know if that's necessarily true. Many of us here come from the public school system. Many of us have children in the public school

system. But it's really totally irrelevant whether or not you went to a public school or private school, whether you have children in the public school or not. Those of us who sit in this body care a whole lot about the education of our children. You don't have to have kids to care about the education of children. This issue is very, very important to all of us. It's not a philosophical discussion. It is a real discussion about the real problems about the Department of Education. It's been a problem since I've been in school. Resources have been a problem since I've been in school. And that's a half century ago, Mr. President. That's how long that we've either not accomplished what we wanted to accomplish or at least we've gotten along.

"Second, the comment that was made that this is a constitutional amendment, people have a right to vote. I totally agree. But there are proposals by the task force that requires a constitutional amendment. The 30 percent dedication to the general fund requires a constitutional amendment. Changing the Board of Education is a constitutional amendment. We are not allowing the people of this State, by virtue of this bill, to have access to that vote because we've closed it off. Right now, we've closed it off. And all we're offering the people of this State, as the Senator from Hawaii Kai said, is that we're going to increase your taxes; we're going to create a new tax; we're going to create a new taxing authority.

"Mr. President, accountability is one. That is needed and we failed on that and maybe that's why there's discussion on whether to have an appointed board or an appointed superintendent. That's accountability. How the policies are developed; who develops those policies; who executes on those policies -- that is accountability. Again, the debate on who should appoint the superintendent and whether the board should be elected or not. That's why that debate should occur. Because that is the problem with the education. That is not philosophical. That is real.

"Second, money -- the fiscal aspect. This bill deals with the fiscal aspect. We're going to let the DOE tax. Okay. Well that's covered by this report. That proposal should be reviewed. That's a constitutional amendment. Accountability and fiscal responsibility, and we proposed only one solution. That is not the only solution, and if we believe that is something that is the only thing that we should consider in helping the children of this State, I'm sorry, because you're wrong.

"Thank you."

Senator Kanno then rose and said:

"Mr. President, I rise to rebut the comments made by the Senator from Waimanalo.

"I believe the previous speaker, when speaking about how blank votes get counted on constitutional amendment questions, may be looking at this from another perspective. The question to the voters is, would you give the Board of Education taxing powers, yes or no. My understanding about his position is that he would be opposed to it. He has said that blank votes would hurt his effort because the impact of blank votes would mean that the people wouldn't have a vote at all.

"My understanding about the court ruling is that blank votes, in effect, are counted as 'no' votes. So in order for the Board of Education to receive this taxing power, it will require an extraordinary number of 'yes' votes. Blank votes are, in effect, counted as 'no' votes. In order for this constitutional amendment to pass, there will need to be a substantial amount of 'yes' votes, so the people will have to affirmatively decide on this issue whether they want the Board of Education to have these taxing powers and this authority.

"Thank you."

Senator Anderson then said:

"Mr. President, point of clarification, if I might, for the good Senator.

"I really don't care if it's counted as 'no' that's going to help me or not. It's how the bill is going to be put out there, how it's going to be worded. Normally we do it to be as confusing as possible. But my whole idea on this is not that you're giving them a fair shake. All we're saying is, Are you going to vote 'yes' or 'no' for this? Put it that way. It's not fair that you're not giving them the opportunity to say, Do you want a Board of Education? Do you want to have the Superintendent? You're not giving them any options, except one -- you want your taxes raised so you can take care of your kids.

"I'm not saying they have to go my way. I'm not saying it's going to be improper for me to try to push them into my thinking or that it's proper. I'm just saying that it's a terrible shame that we're circumventing our responsibility by even having this. I don't care who introduced it or why. You want reform, then do reform. There's many, many ways to have responsibility and this isn't one of them, my friends. And I'm not asking everybody that they have to go my way. But I've watched how we sit there and frame our words so that it's so confusing that people get disgusted because they're saying, I don't know; if I vote this way, I think I'm wrong; I may be right; so they just leave it blank. And that's not fair, even though it goes my way. It's not fair to them, sir.

"Thank you, Mr. President."

Senator M. Ige rose to speak on the measure and said:

"Mr. President, I wasn't intending to say anything but . . ."

The Chair interjected:

"Are you speaking for or against the measure?"

Senator M. Ige replied then continued:

"I'm standing to speak against the measure.

"Mr. President, I guess I'm a little bit touched by the Senator from Manoa, Senator Taniguchi, when he mentioned about his daughter being a junior at Roosevelt. You know, Mr. President, I think the question here is resources. And if this whole debate can bring more money to our schools in this budget, I think it's all worth it to have the passion and emotion. But when you go to the schools . . . you see in the newspaper and, you know, a certain Senator said someone's drinking out of a trough, our school is asking for electrical because they cannot have more computers. You know, just by transferring everything into this bill, by moving everything over, it sort of distracts the community from, Where does the buck stop? Who ultimately should be held accountable?

"You know, Mr. President, when we ran, when people bring up education and the quality of education and students passing HSTEC on the first try, we are held accountable. People ask us. To sit here, to listen to the debate, you sort of cringe under the pressure and say, maybe it is better to just shift everything over so we can kind of deflect what the community is saying about what we should be doing.

"But you know, Mr. President, people are saying about the school that it's broken. It cannot be fixed or it needs to be fixed today. Mr. President, let's fix it. Look at the budget. Have we sacrificed enough today to make sure that our kids can learn and meet the challenges of the new century? Look at the budget. And maybe I should save my comments for the budget. But look at it and tell me what we have done to help our kids be ready for the challenges that we're going to face tomorrow.

"So when I hear Senator Taniguchi from Manoa, and I know I'm not supposed to be using names (Senate Rules), but when I hear his voice about his daughter being a junior and I think about my daughter going through public schools, and then when I see Senator Nakata, as well as Taniguchi, introduce measures that they took a lot of heat on -- increasing the taxes just to get more resources to our schools -- these individuals had the courage to stand up and be counted.

"And I just hope -- I just hope -- that during conference we can look at this budget and set a clear direction, set clear goals on how we're going to address education, because, Mr. President, I do not believe that this bill before us will help us meet the challenges of the future. We have an opportunity to place the resources where it is absolutely necessary. We can do it now and I sincerely hope that we do so within the remaining weeks.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 150, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Anderson, M. Ige, Iwase, Slom, Tanaka).

Stand. Com. Rep. No. 1542 (H.B. No. 266, H.D. 2, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1542 be adopted and H.B. No. 266, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Slom rose in support of the measure with reservations:

"Mr. President, I rise to speak in favor of the bill with reservations.

"Mr. President, I've gone through an epiphany recently and I just have to tell you that I'm very happy my original objections to the bill were that the bill was going to force a lot of things in the workplace. But I'm very pleased that some of the amendments were made in committee and the chair from Alewa Heights, Kalihi, Liliha, Nuuanu, Palama, Puunui exposed me, Mr. President, to other arguments of breast-feeding, and so I've tried to keep an open mind and open heart.

"And so I'm going to support this bill with reservations and the reservations are these: that the original proponents were very clear in what they wanted. What they wanted was mandatory time off with pay, mandatory set-aside space in an office of every employer regardless of size or number of employees, mandatory set-aside refrigeration and/or other equipment. As I said, it's not in this bill now and I know that my colleagues will not support that in the future.

"So therefore, Mr. President, with the gracious help of the Health and Human Services chairwoman, I'm very happy to support this bill with reservations. Got milk, Mr. President?" (Laughter.)

Senator Anderson also rose in support of the measure as follows:

"I'll vote for the bill, but for those in the chamber that don't have the bill before them, the title is 'Relating to New Mothers Breastfeeding Promotion and Protection Act,' and I think that's why the good Senator was so concerned in the beginning of the way it was written. But he's been enlightened and as he said, it's an open subject.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1542 was adopted and H.B. No. 266, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO NEW MOTHERS BREASTFEEDING PROMOTION AND PROTECTION ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, Kawamoto).

Stand. Com. Rep. No. 1543 (H.B. No. 936, H.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1543 was adopted and H.B. No. 936, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL PAPER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, Kawamoto).

Stand. Com. Rep. No. 1544 (H.B. No. 1267, H.D. 1, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1544 was adopted and H.B. No. 1267, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, Kawamoto).

H.B. No. 122, H.D. 2, S.D. 1:

Senator Tam moved that H.B. No. 122, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Matsuura.

Senator Sakamoto rose to speak against the bill and said:

"Mr. President, I rise in opposition to the bill.

"This bill, I guess, creates serious penalties for not paying on time. Prompt payments are good, especially in bad economic times. People want their money paid on time. Presently, there are existing laws on the books to handle delinquent general contractors who do not adhere to the 10-day prompt payment law. But in speaking with DAGS, Department of Accounting and General Services, who oversees all of the complaints, they said they've received very few complaints, and they have the authority to enforce this.

"As was previously mentioned here, maybe they can do a better job. Maybe other state agencies can do a better job as well, but because of the lack of complaints, I think the seriousness of the penalties proposed is way overboard. The subcontractors can also contact the general contractor's bonding company.

"We passed a measure on this very floor a few years back called the Little Miller Act. Subcontractors were complaining that for periods of time they didn't get paid, and that measure said that if they don't get paid when finishing their part of the work, in 90 days they can get a claim from the general contractor's bonding company. If subcontractors aren't aware of that provision, they should be. That's a remedy. People are saying they haven't got paid for years and years, that's past. That has been cured. And if they haven't used the remedy of going to DAGS or the bonding company, they should.

"These measures in this bill, Mr. President, if you didn't pay a mortgage payment by one day after you're due to pay it, does that equate to a \$1,000 fine or 10 percent, or \$5,000 fine or 10 percent, or \$10,000 fine or 10 percent, whichever is greater? And as you are aware, contracts are large amounts. General contractors and subcontractors have subcontracts. They work these things out. Mr. President, all of this can all happen on

one payment -- somebody's bookkeeper fails to pass the checks out, something goes wrong.

"In a bill previously in the Judiciary Committee about fish, you catch all of the species in one net and maybe it should be incidences, but I made that comment earlier, but that wasn't fixed. So this is just too much, Mr. President. The State shouldn't get in the way of general contractors doing their contracts. DAGS isn't in favor of this, and I don't think it's a very good bill, Mr. President.

"So I urge my colleagues to vote 'no,' all of you."

Senator Chumbley rose in opposition to the measure as follows:

"Mr. President, I rise to speak in opposition to this bill.

"Mr. President, before I proceed, I do want to assure our colleague from Moanalua that we did take care of the fish bill. It's not per fish, per rock. That was taken care of.

"Mr. President, this bill goes too far in the penalties. The civil provisions that it allows for of a \$1,000 fine or 10 percent of the contract, whichever is greater, for the first offense, is too far; \$5,000 fine or 10 percent of the contract on a second offense goes too far; \$10,000 or 10 percent of the contract, whichever is greater, and the prohibition from bidding for three years for a third offense just goes too far.

"I'll draw all my colleague's attention to a recent court case, Metcalf Construction, where under Chapter 104D the court attempted to bring charges against Metcalf Construction and they actually won the court case because the penalties were too severe. I think that penalties are appropriate, Mr. President, but these go far, far too far. For those reasons I'll be voting 'no' on this bill."

Senator Taniguchi rose and said:

"Mr. President, would you note my reservations on this bill."

The Chair so ordered.

Senator Inouye then said:

"Please register me as a 'no' vote, please."

The Chair so ordered.

Senator Matsuura requested a ruling from the Chair as follows:

"Mr. President, I would like to request a conflict ruling from the Chair."

The Chair stated:

"Please state your potential conflict."

Senator Matsuura replied:

"My brother is a subcontractor on many state jobs."

The Chair ruled that Senator Matsuura was not in conflict.

Senators Buen, Anderson and Tanaka requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator Tam rose and said:

"Mr. President, just to clear up the air in terms of this bill, I speak in favor of it.

"Many of the provisions written in this bill are the proposals of the administration.

"Thank you."

Senator Sakamoto inquired:

"Mr. President, will the chair of GOH yield to a question?"

Senator Tam having answered in the affirmative, Senator Sakamoto continued his inquiry:

"I don't understand. Which administration?"

Senator Tam answered:

"The State administration."

Senator Sakamoto responded:

"From my knowledge, this isn't their current position. I think when we met with them, they acknowledged that there were few complaints and this wasn't their position the last time we met."

Senator Tam then stated:

"Unfortunately, you didn't have any further dialogue with them. They communicated with me afterwards."

Senator Sakamoto further inquired:

"That they're in favor of these penalties?"

Senator Tam answered:

"Yes."

Senator Sakamoto then said:

"Well, I haven't communicated with them after you. It may be so, but I would seriously consider that this isn't their position."

Senator Tam then commented:

"My suggestion is that you talk to them.

"Thank you."

Senator D. Ige then said:

"Mr. President, if you could just note my reservations on this measure."

The Chair so ordered.

Senator Hanabusa requested her vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 122, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 9 (Bunda, Chumbley, Chun, M. Ige, Inouye, Iwase, Matsunaga, Sakamoto, Slom).

H.B. No. 460, H.D. 2, S.D. 1:

Senator Kanno moved that H.B. No. 460, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Slom rose in support of the measure with reservations as follows:

"Mr. President, I rise to speak in support of the bill with reservations.

"The check cashing business and industry has become very widespread. It's probably a growth industry here, and a number of people want to put many restrictions on the business. Protecting the public against fraud is a legitimate and valid concern. However, I think that a number of people seek to restrict the business because they are concerned about just how much growth has taken place. For example, we heard that a lot of older people are using check cashing services in lieu of banks because they find that even with the supposed high fees that these companies are charging, the fees are lower than going through a regular bank where in fact maybe the fees are higher or they can't even get the amount of money that they want because of certain limits and other considerations, or they don't have the convenience.

"So I think that whenever we're passing legislation to protect the public, we should make sure that we are in fact protecting the public, that there is a real and not a perceived problem, and that in fact we are not protecting another industry such as the banking industry.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 460, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHECK CASHING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1547 (H.B. No. 1361, H.D. 2, S.D. 2):

Senator Kanno moved that Stand. Com. Rep. No. 1547 be adopted and H.B. No. 1361, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Slom rose in support of the bill with reservations and said:

"Mr. President, I rise in support of the bill with reservations.

"The bill was originally dubbed the 'Jimmy's Tour' bill and sought to prohibit what had occurred to a number of people who were taken advantage of by one charter tour company. And while that is regrettable and should not be accepted or tolerated and the laws should be enforced, I think that this bill puts some undue burdens on legitimate tour and charter operators, particularly with the financial disclosure, reporting, bonding, and other requirements. So I'll support the basic concept but with reservations.

"Thank you."

Senators Anderson and M. Ige requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1547 was adopted and H.B. No. 1361, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHARTER TOUR OPERATORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1548 (H.B. No. 37, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1548 be adopted and H.B. No. 37, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the bill as follows:

"Mr. President, I'll speak in opposition to the bill.

"While I certainly support our film industry in the efforts that we have done, again, this is a bill that will create a special fund, the State of Hawaii Film Revolving Fund. I think good prudent policy requires that we use appropriate general fund means.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1548 was adopted and H.B. No. 37, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO FILM PRODUCTION FUNDING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1549 (H.B. No. 162, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1549 was adopted and H.B. No. 162, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SERVICE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1550 (H.B. No. 756, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1550 be adopted and H.B. No. 756, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Buen requested a conflict ruling from the Chair as follows:

"Mr. President, may I have a ruling on a conflict."

The Chair then said:

"Please state your potential conflict."

Senator Buen replied:

"I work for Maui Electric Company."

The Chair responded:

"No conflict. You may vote on this measure."

Senator Buen then rose to speak against the bill and said:

"I rise to oppose this bill, Mr. President.

"Mr. President and my honorable colleagues, the Legislature created the Public Utilities Commission to approve or disapprove projects, case by case. And the Public Utilities Commission holds public hearings and hears all sides and takes into full consideration direct and indirect financial, economic and social factors. This means that the Public Utilities Commission very carefully studies health factors, including EMF, and the cost factors to rate payers. I understand the concerns for visual impact and possible health effects like EMF, and I share the concern, but we must balance these factors involved.

"In 1997 the Legislature passed a bill known as Act 95. That act lists factors that the public utilities must take into account including EMFs, visual impact, reliability of electric service, and cost. The PUC must consider the factors listed in the statutes.

"What we are essentially doing by passing this bill is to say to the electric utilities, yes, go ahead and raise those rates. And

some people say they can pay, but many absolutely cannot or will have a real tough time. Families are hurting. Many of them are just making ends meet. Many of them will not be able to pay those rate increases. Senior citizens who are on fixed incomes, and young families, will just have a real tough time paying higher electric rates.

"There's something wrong with this picture, Mr. President and fellow colleagues. This bill is wrong. I certainly appreciate that there are some Senators responding to their constituents in their districts who are lobbying very hard to underground the large overhead transmission lines. But, and I say but, leave it to the Public Utilities Commission. It's their job. Let them make the decision.

"I urge you to consider the long-term consequences of interfering with the public utilities' work. We have to look beyond the emotion of visual impact, and I ask my fellow colleagues to vote 'no' on this bill.

"Thank you, Mr. President."

Senator Anderson rose to speak against the measure and said:

"Mr. President, I vote 'no' on this particular measure and the reason being that again we're using children, as I said on the tour buses, etc.

"In this particular measure, when we started off, we were playing around with kilowatts. What was dangerous and what wasn't, and a hundred and somewhat volts versus 30, 40, 60 or whatever, and with anything placed near schools or a preschool or hospital. We played around with a lot of things. And this bill has changed considerably. The fact of the matter is there is all kinds of data. I have said originally when we were doing H3. Everybody was worried about the overhead placement of utilities at that time. It held up the project for a while.

"With this one here it's saying that it's in a residential area. In reality, it's because it's ugly and they want it underground. And it's not going to be that only those people in that area are going to be paying for it. We all are, now and in the future. In some areas such as Hawaii Kai, if I remember correctly, in Koko Head, etc. they all went underground. That's because the developer did it that way. Those people paid for it when they bought their homes. This one is saying we want it underground now, and they are going to take and make sure that the cost is going to be given across the board.

"They've taken out that it's only going to be in areas with 500,000 people or more. That's no longer in the bill, but that was in the bill. In other words, safety of children on Oahu was very pertinent. Neighbor islands, we didn't matter too much. Some of them said, well we don't have the same problems that you do today. But when we put out a bill, it should be looking at the future. That's where the problem is anyway. We do everything, we react rather than act positively and with good common sense.

"And for those reasons I'll be voting 'no,' because I think that when we originally put this bill out, it was to take care of a matter that some people had in their areas. But they're going to happen all over this State because this State is growing. And soon, Maui will have populations over 500,000 and so will Kauai and the Big Island. We're growing and I hope that we grow with a positive mode with good planning and not something that we're going to just react to for that very moment and we pass bills that are not going to be for the future of our kids. They're going to have to take care of their own problems. We're just going to take care of today.

"Thank you very much, Mr. President."

Senator Kanno spoke in favor of the measure and said:

"Mr. President, I rise to speak in support of the measure.

"Mr. President, one of the previous speakers indicated that the Public Utilities Commission has the responsibility to weigh all of these factors and make decisions on undergrounding power lines. At the confirmation hearing last week, Mr. Greg Pai, who's been serving on an interim basis on the commission, indicated that there is really no method or means to underground lines unless there is another source to pay for it, either federal funds or special highway funds. What he said to us at the hearing is that they aren't going to be undergrounding any power lines.

"This measure addresses a great deal of community concern and concern from Legislators about the Public Utilities Commission's inability to decide on the side of the community's request to underground. Time and time again requests to underground have gone unheeded by the Public Utilities Commission. So I urge my colleagues to support this measure.

"One item in closing is that the bill does not mean that there will necessarily be higher rates. The bill specifically says new 138 KV lines. First of all, there are very few projects that are pending of this magnitude. Second of all, the utilities always have the right and the opportunity to relocate proposed lines away from these areas. They can build all of their lines overhead as long as they don't come within residential areas where the public has voiced their concerns.

"Thank you."

Senator Chun rose in opposition to the measure and said:

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

"Mr. President, I appreciate the time and effort that was put into this bill by my colleagues from Manoa and Makakilo. They have spent a lot of time and effort to try to draft a bill that would meet the needs of everybody. However, unfortunately, this bill as currently drafted does not seem to accomplish that.

"It seems confusing that the background for this bill either states that either for visual purposes or for safety. If it's for visual purposes, I see no reference in here in regard to what impact utility lines will have on the visual scene of the State of Hawaii. If it's for safety, it sets a standard of 300 feet but there has been no testimony or evidence regarding to see whether or not even this 300 feet is safe, if at all. In fact, if it goes to safety, I must turn to the testimony of Bruce Anderson, the nominee for the Director of Health for the State of Hawaii, in regards to maybe a companion Senate Resolution. Dr. Anderson states that the information regarding EMF is incomplete, at best. He goes on to say that it states that one federal health agency, the National Institute of Environmental Health, convened an international committee that concluded that the power line frequency in EMF can possibly cause cancer in humans. However, Dr. Anderson goes on to say, it neglects to mention that two other U.S. federal health agencies do not believe that EMFs are a health risk.

"In July 1997 the National Cancer Institute reported its own study which found that EMF did not cause leukemia in children of Illinois, Indiana, Iowa, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania and Wisconsin. In January 1997 the National Academy of Sciences reported specifically no conclusive and consistent evidence shows that exposure to residential electric and magnetic fields produce cancer, adverse neuro-behavioral effects or reproductive and development effects. Because of this, Dr. Anderson says there can be no federal or Hawaii standards for EMF which are based on health. No one, including the PUC, can establish a health-based standard for something which is not proven a health hazard. If this is the case, Mr. President, if there is no standard for determining what is safe, if there is no standard in determining what's the impact of our economy in terms of preserving the visual impact of certain scenery, if there are no standards as far

as how much is enough in terms of what we pay for electrical costs, if there are no standards for what the impact is going to be on businesses in terms of whether they're going to be able to stay in business or keep people employed, if there are no standards for these important considerations, then this bill really should not be passed.

"I submit, Mr. President, that these decisions to underground lines based upon health, to underground lines based upon cost, to underground lines based upon other social impacts should be done by the PUC and I suggest that if we are not comfortable with the appointees to the PUC regarding their ability to make these hard decisions, then I suggest, Mr. President, that this body not confirm them. But those are where the discussions should take place, where the people who we actually charge with making these decisions, because if we don't charge and if we don't trust them to make the decisions, we shouldn't appoint them.

"It goes back to what I said in an earlier bill, why are we trying to protect departments from doing their job? Why are we doing that? Why are we doing laws to second guess them because we don't trust them, and then we keep on continuing to appoint them. Oftentimes we have nobody to blame but ourselves, if that is the case. For those reasons, Mr. President, I urge my colleagues to vote against this bill.

"Thank you."

Senator D. Ige then rose and said:

"Mr. President, I would just like to note my support with reservations. Thank you."

The Chair so ordered.

Senator Inouye rose on a point of personal privilege and said:

"Point of personal privilege please, Mr. President.

"This bill has been amended several times, and one of the amendments that sort of bothers me was deleting the 46 kilovolt transmission system now is recognized to 138 kilovolt, and my question is, Where would a 138 kilovolt system be built, if any, on any of the neighbor islands? Because this is a large system, I was just wondering where would these systems be built, if at all possible, if there is anything that's pending now, and how many in the future?"

At 2:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:24 o'clock p.m.

Senator Inouye continued:

"Thank you, Mr. President. I do want to correct myself. This act is applicable to new 138 kilovolts and my question is still relevant. I would like to ask anyone who could answer, Where would a system like this be built, and if any, are there any outstanding applications to the PUC?"

"Thank you."

Senator Taniguchi responded:

"Mr. President, in response, there's currently only one possible place and actually the application has not been filed. This is for the Kamoku-Pukele project, which goes up Wa'ahila Ridge. According to the testimony, to the best of my knowledge, that's the only 138 KV line project that is even being contemplated, although others fear it on other islands.

"To continue, Mr. President, I had not planned to speak on this bill and I had thought that my colleague from Waianae was going to counterattack my colleague from South Kauai

(laughter), but if you recall, Mr. President, previously we passed S.B. No. 143, S.D. 1, which included a number of provisions, and made them applicable to 46 KV lines and above. We have now changed this to make it applicable to 138 KV lines and above. On the neighbor islands, the highest kilovolt lines are 69 kilovolts.

"We have done this to try to accommodate some of the concerns. The original S.B. No. 143 also had a retroactive provision which would make it applicable to projects that had been approved but had not been completed, and we have taken that out. It would only be applicable to perspective applications. There was discussion about exempting the neighbor islands, but that was defeated in the Ways and Means Committee.

"With regard to EMF, generally the agreement is that health studies are inconclusive as to the effects of EMF as a cancer causing agent, but we would prefer to err on the side of safety. In the past we've had other kinds of chemicals -- lead paint, heptachlor, all these kinds of chemicals -- that we did not know the effect, even secondary smoke from tobacco. We've had those kinds of problems. So I think your committees were concerned that we should err on the side of safety.

"There's also been some question about the spreading of the cost and the mandatory nature of this bill. Yes, the current draft of H.B. No. 756, S.D. 2, does include a mandatory provision, but I'd like to point out that currently even in the Wa'ahila Ridge/Kamoku-Pukele project, parts of this are mandated to go underground because HECO is required to do so based on City ordinances mandating that type of undergrounding. They also comply with City ordinances in the Capitol District where they're required to underground utility lines. So we have State statutes that mandate undergrounding already, and those costs are spread to all ratepayers.

"I would ask my colleagues to support the bill and that we will be continuing discussions on this.

"Thank you."

Senator Bunda rose in opposition to the measure as follows:

"Mr. President, I am going 'no' on this measure.

"However, to the credit of the chairs, they did change the voltage to 138 KV. I just hope as it moves along, if it does pass, that the 138 KV will not change.

"Thank you very much."

Senator Hanabusa rose in support of the measure and said:

"Mr. President, it's not really for my colleague from Manoa but his 16 year old daughter that I speak in favor of this measure.

"Mr. President, there is a lot of misperceptions and misconceptions about 138 KV lines, EMFs and what it means. My colleague from Manoa is correct. The only potential new application is that which is going to go from Kamoku to Pukele, which is really for those of you who have children at Iolani School, right next to Iolani School to the top of Wa'ahila Ridge and behind Palolo Valley. There is also another 138 KV line which is to be constructed underground from Archer, which is behind Honolulu Club. Those of you who go there you should know that there is a 138 KV facility located there and it's going to go underground, basically down Kapiolani again to Iolani School, and that completes the Island of Oahu's 138 KV grid.

"Mr. President, this is really an issue of fairness. My colleagues, you raised various issues about cost, why should everyone pay. Do you know, for example, that 138 KV lines will never go overhead in Palolo? The reason is because the

residents of Palolo, I believe some of our colleagues were involved in it, sued. And as a result, Hawaiian Electric agreed that it would not put any overhead lines in Palolo, and if it does go, it will be go underground.

"You asked what is the PUC's rule. Nothing. It doesn't care, as long as you make the decision for it. East Honolulu -- you have a beautiful highway there, 'Kal' Highway. I call it rock gardens. Somehow your highways are beautiful. You should come out and see the highways we have in Waianae. But having said that, do you know that underneath your median strip are the lines ready to accept 46 KV lines? So they will go underground, as well. Do you know who paid for that? We did -- ratepayers -- half of it by ratepayer base, the other half by our tax base. Is that fair? Is that fair for the rest of the island? But these are things that are not in your face so you are not addressing that.

"We talk about the health concerns. My colleague from Manoa is perfectly correct. The jury is out. In the PUC hearings on EMF -- the longest that they've ever had -- Hawaiian Electric brought in five experts, most of them earning about \$2,500 a day just to sit there. And of course, we paid for it because it's in our rate base. Now, what was the conclusion of all our learned experts? Very simple. It's either like the glass is half full or half empty, whichever way you want to look at it. And if you ask them quite candidly at about 11:30 at night when everyone is a bit punchy, they'll say, 'of course we want the jury to remain out.' That's what keeps us in business. And they will tell you a very important fact. Do you know that the tobacco industry, until very, very recently, never admitted that there was a causal link between the smoking of tobacco or the inhaling of smoke and lung cancer. They won't admit that. It's a legal determination that makes the link because scientifically, if you want a scientific determination of a causal link, you're not going to get it because, colleagues, science never proves, it only fails to disprove. So if you ask any scientist -- for those of my colleagues who are attorneys, you know -- they will give you reasonable scientific certainty, but they will never say that there is a causal link. So you will not have a causal link.

"What this bill does is it makes difficult decisions for an entity that doesn't want to make the decision, the PUC.

"You should also be aware that the Hawaii Supreme Court made a decision on the Island of Kauai where the County Council there wanted to tell the Kauai's Citizens Utilities that it could not build electric poles higher than 'X'-amount of feet. The Hawaii Supreme Court said, those are issues within the jurisdiction of the PUC.

"Look at county ordinances or city ordinances that required the undergrounding of lines from Liliha to Archer because a portion of it is a design district. Look at why on King Street you will never have overhead lines because there is an ordinance or state statute that says you will not have anything overhead. We make those kinds of laws for whatever reasons.

"We now have become a lot more educated along the way. We know that there may be a concern about EMFs; there may be concerns about our children. This statute gives the utilities a choice. It tells the PUC that if the utilities come within 'X'-amount of feet of a school, they must go underground. But they can always engineer it other ways. They can avoid it. We're not saying, like an ordinance, that 'Hey, it's going to go underground.' We're giving them a choice.

"Colleagues, this measure is not onerous. I ask that you support it because it sends a clear message and it gets us going on the right track.

"Thank you very much."

Senator Anderson rose to speak on the bill again and said:

"Mr. President, I guess it's a little rebuttal, if I may.

"I think what the good Senator from Waianae said is factual -- that we can't get a clear determination from the scientists and that's why we have a problem here. We don't get a clear anything from the attorneys. It's always so vague that it's not this is what's going to happen. And for those of us who are not attorneys, if we say the Constitution says this and it is harming these people or this rule is harming these people, how can we help. They always tell you what the court said. I'm not interested in the supreme court, the circuit court and the rest of it. I want to find out if in fact, because I'm not part of the administration's in crowd, why we have to pay for certain things after the fact.

"If Palolo, which is an old community, has to have wiring, I can understand you standing up and saying Hawaiian Electric should pay. I just don't know why we have to go across the board and all the rest of us pay. If Waianae has a brand new subdivision, I can understand that going underground. That's what they're looking for.

"That's why it bothers me so much that we make laws which tells us what we should do, after the fact. If we're going to disallow certain groups from the neighboring islands because right now they don't have the same problems, they're going to end up with the same problems. And then they're going to say, 'Hey, we would like to have underground wiring. We would have liked to have had that.' So we should look to the future and say if we're going to change the law for the State of Hawaii and if we're going to say strictly because we want to do it for children, then it should be every island and it should be an automatic deal. It shouldn't matter if you have a constituency of 500,000 or more to start off with.

"And I agree with you. Hawaiian Electric has . . . I have a lot of problems because my dad and them used to be stockholders and everything they say is we have to do this for the stockholders. Well, what about the rest of us that are not stockholders. We don't have a blue chip stock, so they're charging us. That's why I fight big business over here and everybody laughs and thinks it's funny. All I want them to be is competitive, not looking at who's going to benefit and who's not. Be competitive and let's fight for the good of the people of the State of Hawaii is what I'm saying. And this bill doesn't do that. This bill only takes care of certain groups for now, not for the future.

"And if we're going to help everybody, like we're supposed to, then that's what we should be looking at. So for those reasons I'm still going 'no,' Mr. President."

Senator Chun rose again and said:

"Mr. President, also in rebuttal, I guess, to the statements made. I would agree with the statements made by the Senator from Waianae that the question really is equality. The question really is why does one neighborhood get underground utility lines down their highway and why one doesn't. I think those are important questions.

"What is happening in those kinds of situations, in all the situations in which they have an underground in, for example in the Honorable Senator from Hawaii Kai, in that one, it was done by a cost-sharing agreement between the State Department of Transportation and the utilities. And in certain circumstances, the State Department of Transportation refuses to enter into those kinds of agreements with the utilities and then that's when they go overhead.

"But again, the focus really is what is the department doing? Why are they favoring one area over another? Why are they building it underground one time and overhead the other? Why is one neighborhood discriminated against on the other side? I think those are the questions we need to ask because I think once you get cooperation with the departments and you get equality of treatment, then you are going to truly have a

situation where both worlds can be realized. You can preserve the integrity of the visual impacts of the neighborhoods. You can look at potential safety once we have done standards to determine what is safe and what is not. And you can have underground utility lines, but again, rather than force the departments to make those fair decisions and fair judgments, we're going to ignore the departments and have the ratepayers pay all of that and absorb all the cost, as opposed to having the departments and all the general taxpayers to make fair and equitable decisions throughout the whole state.

"I think that's what I would want -- a bill that would have required the Department of Transportation or even the counties, for that matter, when they do road widening projects to make provisions in their budget, in their construction plans for the undergrounding of utilities. It's as easy as that. The utility companies can save money and the ratepayers can save money on those, and the Department of Transportation and the counties could plan ahead in terms of coordinating their efforts with the utility companies. Easy as that. Easy as that.

"I think those kinds of bills would have foresight and planning in mind as opposed to a hammer, would go a long way to making this State a better place to live.

"Thank you, Mr. President."

Senator Sakamoto rose in support of the bill with reservations:

"Mr. President, I rise in support with reservations.

"No one likes to see overhead lines. The public would prefer all lines underground, but like everything else, cost is the problem. And I agree with the Senator from South Kauai that perhaps road widening projects, when those are done, certainly, that would be the best time as opposed to a measure like this. And certainly, we need to see how we can deal with this problem because it is something that I think in the future we want all lines underground, Mr. President."

Senator Iwase then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1550 was adopted and H.B. No. 756, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Anderson, Buen, Bunda, Chun, M. Ige, Matsuura, Slom, Tanaka).

Stand. Com. Rep. No. 1551 (H.B. No. 1041, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1551 be adopted and H.B. No. 1041, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1551 was adopted and H.B. No. 1041, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1552 (H.B. No. 1071, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1552 be adopted and H.B. No. 1071, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the bill and said:

"Mr. President, I rise to speak in opposition to the bill.

"The bill establishes a special fund in order to pay an administrator to monitor the continuing education of insurance licensees, and it also raises fees that are going to be collected by the insurance commissioner. So I'm voting 'no.'

"Thank you."

Senator Tam rose requested a conflict ruling as follows:

"Mr. President, I may have a possible conflict of interest.

"I sell life insurance."

The Chair ruled that Senator Tam was not in conflict.

Senators Anderson, Chun, Bunda, Buen and Iwase requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1552 was adopted and H.B. No. 1071, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1553 (H.B. No. 1522, H.D. 1, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1553 be adopted and H.B. No. 1522, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to oppose the measure as follows:

"Mr. President, I rise to speak in opposition to the bill.

"The bill proposes to exempt county real estate appraisers for ad valorem taxes, from licensing and other requirements for other property appraisers in the State. And the argument is, and the justification is that this is a county function and the appraisers should not be subject to the State rules. However, the county appraisers have been subject to the State rules. I haven't seen or heard any problems with that requirement for registration or for licensing, but I have seen problems, particularly in the City and County of Honolulu, where the county appraisers were told to do and, in fact, did illegal acts in over-assessing certain kinds of property, commercial property, because, as it was stressed, the administration of the City and County of Honolulu was seeking greater revenue enhancement from higher property appraisals. And so I think it would be incumbent upon us not to support the exemption of the county appraisers, particularly since at least the City and County of Honolulu is still saying that it needs more revenues and may be seeking them through the appraisal process.

"Thank you."

Senator Anderson rose with reservations and said:

"Mr. President, I'm reading this from the legal check and I don't know if I want to go 'no' or 'with reservations.' I think at this point I'll go 'with reservations' because it does say that it possibly gives them a chance to go over the fair market value which is not what we want to do with this particular bill -- I don't think. I believe that they wanted to have a fair appraisal, not one that would go over fair market value.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1553 was adopted and H.B. No. 1522, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Ihara).

Stand. Com. Rep. No. 1554 (H.B. No. 318, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1554 was adopted and H.B. No. 318, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ADDITIONAL SCHOOL CLERICAL POSITIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 1555 (H.B. No. 632, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1555 be adopted and H.B. No. 632, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak against the measure as follows:

"Mr. President, though I support the intent of the bill, again it creates yet another special fund, the Developmental Disabilities Special Fund. So I'll be voting 'no.'"

Senator Anderson then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1555 was adopted and H.B. No. 632, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISABILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Ihara).

Stand. Com. Rep. No. 1556 (H.B. No. 635, H.D. 2, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1556 be adopted and H.B. No. 635, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose in opposition to the measure and said:

"Likewise, Mr. President, I rise in opposition to the bill.

"The bill creates the State Health Planning and Developmental Special Fund."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1556 was adopted and H.B. No. 635, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1557 (H.B. No. 235, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1557 be adopted and H.B. No. 235, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Anderson rose to speak on the measure with reservations:

"Mr. President, I have some reservations on this bill.

"If I'm reading this properly, it still permits people who live out-of-state to be able to vote for the Hawaiian Homes Commissioners. I didn't think that that was fair. I can't go to another state and vote for the people from their state. Their choice was to move out of state for whatever reason. I do believe that you should be a resident to vote for the commissioners on Hawaiian Home lands. And I have some reservations the way it's written and some other concerns, but that's my main concern.

"Thank you very much."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1557 was adopted and H.B. No. 235, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1559 (H.B. No. 1703):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1559 was adopted and H.B. No. 1703, entitled: "A BILL FOR AN ACT RELATING TO WAIMANALO," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1560 (H.B. No. 142, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1560 was adopted and H.B. No. 142, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1561 (H.B. No. 765, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1561 be adopted and H.B. No. 765, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose to speak in opposition to the bill and said:

"Mr. President, I rise to speak against the bill.

"Again, Mr. President, the bill is a tax increase. The bill would seek to increase the daily motor vehicle rental surcharge tax. I think the original proposal was to \$5 from the current \$2. Then it was down to \$3. Then it was a blank amount. I do not like voting for blank amounts for any purpose. But the purpose of this bill again is to raise the taxes.

"We always say that this is going to be on the tourists; we won't have to pay it. At least 25 percent of us are tourists when we go to the neighbor islands or when we rent a rental car. So the burden will fall on all of us and I think it's a bad bill.

"Thank you."

Senator Chun also rose in opposition and said:

"Mr. President, I rise in opposition to the bill.

"Mr. President, during the testimony on this bill it was indicated that the practice of unbundling in some states is considered to be deceptive for the consumers. I don't feel comfortable, Mr. President, that we would make a deal to allow

a deceptive practice for our consumers, or potentially deceptive practice for our consumers, in exchange for getting a higher fee. If we're going to set the fee at a higher rate in order to pay some of the expenses, fine. But it should not be subject to a deal to potentially expose our consumers to a deceptive act. And for that reason, alone, as a matter of principle, Mr. President, I don't believe that we should engage in that kind of trading.

"Thank you."

Senator Anderson rose to speak against the measure as follows:

"Mr. President, I'll be going 'no' on this particular measure.

"In the beginning, there were quite a few of the car rental people who were opposed to this, and again because we deferred it, tried to change it, correct problems that they had, they're now for it. The reason being that they're able to charge for the insurance part of it. It helps get commissions for their people. It doesn't make any difference when you write a bill and you correct it. Then you have those who are opposed to it and now they're for it. The rest of them are still opposed to this. There's only a certain group.

"In the beginning, their argument was that it was going to hurt the constituency that they had, the tourists that came in. All of a sudden, you fix it up so they're making a few bucks, then it's a worthwhile deal. That's not fair to what we're trying to do. And that's why I'm opposed to it, Mr. President."

Senator D. Ige then rose and said:

"Mr. President, I just would like to note my reservations."

The Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1561 was adopted and H.B. No. 765, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Anderson, Buen, Chun, Inouye, Iwase, Matsuura, Sakamoto, Slom).

Stand. Com. Rep. No. 1562 (H.B. No. 1726, H.D. 1, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1562 be adopted and H.B. No. 1726, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Nakata requested a ruling from the Chair as follows:

"Mr. President, I'm asking for a ruling on a possible conflict."

The Chair then said:

"State your potential conflict."

Senator Nakata replied:

"My agency may potentially benefit from this bill."

The Chair responded:

"The Chair rules no conflict. You may vote on this measure."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1562 was adopted and H.B. No. 1726, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY

HEALTH SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 2:51 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:04 o'clock p.m.

H.B. No. 232, H.D. 2, S.D. 1:

Senator Fukunaga moved that H.B. No. 232, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senators Taniguchi and Nakata requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 232, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (M. Ige).

H.B. No. 1028, H.D. 1, S.D. 1:

Senator Inouye moved that H.B. No. 1028, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Fukunaga.

Senator Tam rose in support of the measure with reservations:

"Mr. President, I am voting in favor of this bill, H.B. No. 1028, with reservations.

"My reservations are due to the history of this bill and the stand of the House of Representatives and the developer, Trinity Corporation, and what may happen in Conference.

"This bill, coming from the House of Representatives, was proposed to build a parking structure at the Irwin Memorial Park which was dedicated park land by the Irwin family in the early 1900's. Let me make it very clear that opposition is not against the need for more parking, but opposition is to the condemnation of the Irwin Memorial Park for parking.

"Surprisingly, Trinity Corporation, the owner and developer of the Aloha Tower Marketplace, finding opposition to building a parking structure at Irwin Memorial Park, proposed a Senate draft. The Senate draft allowed a parking structure to be built on piers 10 and 11 with the condition that if the State does not give the air rights above the parking structure, the taxpayers of the State of Hawaii would have to pay \$5 million to Trinity Corporation.

"Fortunately, thanks to the supporters of the park lands desiring open space, and my colleagues on the Economic Development Committee and the Ways and Means Committee, the bill was amended whereby no parking will be built on Irwin Memorial Park. The Department of Transportation and the Aloha Tower Development Corporation, along with Trinity Corporation, will review the proposal to build parking on piers 10 and 11. The parties must also report back to us on the progress.

"My message to Trinity Corporation and the law firm of McCarriston Miho Miller and Mukai, which represents Trinity Corporation, is, 'Let us work together and stop making deals behind closed doors through former Governor John Waihee against the good of the public who are the taxpayers of the State of Hawaii. The public and the Senate will be watching you.'

"There is concern in the community that Trinity Corporation will try hard to push through the back door in building a parking structure in Irwin Memorial Park with the help of the House of Representatives who support the parking structure on the park. I ask my colleagues to stand firm on the Senate version of H.B. No. 1028 in conference between the House and the Senate.

"I wish to send a message to the House of Representatives -- let us not legislatively interfere with the dialogue between the State Attorney General on behalf of the Aloha Tower Development Corporation and the attorney of the Irwin family trust, located in California, in regards to the Irwin Park's future. If the House position is adopted, the State of Hawaii will be legally challenged by the Irwin family trust, which means that the proposed bill originally was for condemnation of the park.

"Members of the Economic Development Committee and the Ways and Means Committee, I thank you for acknowledging the great negative consequences of the State of Hawaii being sued if we interfere in the dialogue between the Attorney General and the Irwin family trust.

"Thank you."

Senator Iwase spoke in favor of the measure with reservations:

"I'm rising to speak in support of the bill with reservations.

"I commend the co-chairs of WAM and the chair of Economic Development for recognizing the need to keep Irwin Park a park. That was part of the statute when this developer was selected to construct the Aloha Tower project. Part of the reason this development proposal was selected and was so attractive was that it was very respectful of Irwin Park and the view plains, so therefore I hope that the Aloha Tower Development Corporation will respect that.

"Second, the developer was supposed to have put in parking at the complex. If they cannot go under piers 8, 9, 10, 11 which is where it was supposed to be, then I suggest that the developer look at piers 5 and 6 or perhaps 10 and 11. And again, it is something to be negotiated between the developer and the Aloha Tower Development Corporation. And so therefore I hope the Senate does not back off from its position and allow development at Irwin Park.

"Thank you."

Senator Slom rose in support of the measure with reservations:

"Mr. President, I, too, rise in support with reservations.

"I'd like to echo my colleagues that the Senate make very clear that our position is that Irwin Park is to be returned as a grade level park, as was said and as was promised all along, because if the wishes of the heirs of this estate and their donation to our community can be changed, then any of us are at risk, and it sends a dire message for the future.

"The State has sought to absolve itself from any liability in the Aloha Tower project and yet it made representations not only to the developer but also to the tenants, the lessees. The State merely tries to hold itself out as a land owner right now, yet it wants the benefits of tax revenues and all of the benefits of employment. So the State has an obligation and the obligation is to move forward, but to move forward to provide parking and to provide those things that will make this project truly viable not at the expense of anyone else, particularly at the expense of Irwin Park. So I would urge my colleagues, when we go into Conference, that this position is non-negotiable, that it's extremely clear and that we want to preserve Irwin Park.

"Thank you."

At 3:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:15 o'clock p.m.

Senator Buen rose to speak against the measure as follows:

"Mr. President, I voted 'no' on this bill in the Economic Development Committee and also in the Ways and Means Committee, and I will still vote 'no' on it.

"According to the Aloha Tower Development Corporation and the Department of Transportation, they don't really need this bill, and they have been having ongoing discussions and so I will vote 'no' on this measure.

"Thank you."

Senator M. Ige rose to speak in favor of the measure as follows:

"Mr. President, I rise to support this bill.

"Mr. President, first of all I just want to recognize the chair of the Economic Development Committee. Being on that committee, I know what both she and the vice chair have gone through -- their patience and perseverance in listening to all the testimony.

"Mr. President, I just hope that . . . this bill is turning out to be a bit larger than originally planned because I think what's happening is it may jeopardize our cruise ships. And I'm hoping that during conference we could look at having the DOT chair, trans chair, involved, because if we're not going to build the parking structure over 10 and 11, then we're looking at 5 and 6. But if the long-term vision is to build it on Foreign Trade Zone, pier 2, and DBEDT is dragging its feet in determining the future of the Foreign Trade Zone, then our whole industry may be in jeopardy. And I hope that we can get everybody together with transportation and work this problem out before it becomes, I guess, a real negative impact on our economy.

"Thank you."

Senator Anderson rose to speak on the bill with reservations:

"Mr. President, I have reservations on the bill and I thought I would further read it.

"As the Senator from Kaneohe said, it says that we're going to allow for the group to sue. They're going to be able to have, I guess, a board. The purpose of this act is to preserve Irwin Park in the future, etc. That's what I thought it was all about. But then it says, 'The Development Corporation shall have all the powers necessary to carry out its purposes, including the following powers: (1) To sue and to be sued; (2) To have a seal and alter the same at its pleasure; (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers . . .' I'm just not sure exactly what we're setting up here, and how long this group is going to be in. I also don't know how much it's going to cost because it says here that they're able to circumvent some of our chapters, I guess, and who they are going to be able to hire or appoint, and they can fix their salaries without regard to chapters 76 and 77.

So, there's a whole bunch of things that I'm not sure of on this bill. So I'm going with reservations and I would hope that others who thought it was a simple bill would look at it and realize that it's a lot more than we thought in the beginning.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, H.B. No. 1028, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO ALOHA TOWER DEVELOPMENT CORPORATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Buen). Excused, 2 (Bunda, Levin).

Stand. Com. Rep. No. 1566 (H.B. No. 138, H.D. 2, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1566 was adopted and H.B. No. 138, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL GOODS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (M. Ige). Excused, 2 (Bunda, Levin).

Stand. Com. Rep. No. 1567 (H.B. No. 1178, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1567 was adopted and H.B. No. 1178, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENFORCEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1568 (H.B. No. 273, H.D. 2, S.D. 2):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1568 was adopted and H.B. No. 273, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1570 (H.B. No. 1117, H.D. 3, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1570 be adopted and H.B. No. 1117, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Sakamoto rose in support of the bill with reservations and said:

"Mr. President, I rise to speak in support with reservations.

"Similar to a bill before, this measure is to conform Hawaii law with the federal Adoption and Safe Families Act, which seeks to expedite permanency for children in foster care. So I support the goal of protecting children, but we are dealing with the permanent removal of a child from his parents and it is vital that we allow parents as much time as possible to correct the problem in their home before we permanently take their children away.

"This measure reduces the time period that triggers a show cause hearing under which the child can be permanently removed from 18 months to 12 consecutive months in which the child has been residing outside the family home. I believe 12 months is too short a period in which to give up on a family. We should never give up. Protect -- yes. Help -- yes. Give up -- no, never give up."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1570 was adopted and H.B. No. 1117, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE CHILD PROTECTIVE ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1571 (H.B. No. 1119, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1571 was adopted and H.B. No. 1119, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1572 (H.B. No. 212, H.D. 1, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1572 was adopted and H.B. No. 212, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 351, H.D. 2, S.D. 1:

Senator Chun Oakland moved that H.B. No. 351, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chumbley.

Senators Slom and Anderson requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 351, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVACY OF HEALTH CARE INFORMATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1574 (H.B. No. 32, H.D. 2, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1574 be adopted and H.B. No. 32, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Kawamoto rose to speak in opposition to the measure and said:

"Mr. President, I rise to speak against this bill.

"Mr. President, the position I have taken today has hurt two of the chairmen that I do have a special bond with -- the Senator from Palolo, Waialae and Kahala, their family and his dad who was a Senator from Hawaii who really did help me when I was in the military, and I really appreciate that effort and I'm sorry for some damage of this special bond because of this position and the aggressive nature which I took on this bill.

"Unfortunately, this bill came about very quickly and I never in my wildest dreams would think that this bill would come this far.

"To the Senator from Hamakua and North Hilo, she always mentioned that we were classmates and there's no further bond as classmates of Hilo High School, Class of '58. (Laughter.)

"But Mr. President, the public enemy number one of our quality of life and society in the last 40 years has been drugs. I would venture to guess that everyone here in this Senate chamber has been affected personally by drugs or drug-related crimes. I, myself, have been burglarized four times in one year, three years ago. People are looking for fast cash items and

jewelry for drugs. The insurance company wouldn't insure me if I didn't have a \$5,000, 24-hour alarm system.

"The police claim that 90 percent of all crimes are related to drugs.

"If you are not convinced that drugs are bad, then take a trip to Bobby Benson Center and see all those young, beautiful people whose brains are fried and will never recover again, or you can ask my good friend Senator Bunda, a former director of the Bobby Benson Center, and ask him what he has seen.

"Mr. President, hemp is drug-related plant. Don't ask me, I say ask the professionals -- the Drug Enforcement Agency (DEA), police, prosecutors and detectives. Ask these people who deal with drugs everyday. Don't ask a State Representative; don't ask a farmer; don't ask a professor, and don't ask us Senators. Listen to the professionals, all of these people testified against this bill.

"If hemp is not a drug, as some would like to make you believe, why must the police and the drug enforcement agency monitor and oversee this project? These professionals must do the monitoring because hemp is a drug. Fellow Senators, a drug is a drug, is a drug!

"Police say that you cannot differentiate between the two plants which would make the control of pakalolo that much more difficult. But some Senators who have not gone on a green harvest raid (I have not), will say that you can tell the difference when the plants are mature. Did anyone take the time to ask the law enforcement agencies if they can tell the difference when they go out to eradicate these plants? I was told that the major green harvest missions are done before the plants are mature, when it is difficult to detect the differences in the plants. And we have here, I quote: 'It is virtually impossible to distinguish with the naked eye the differences between a hemp plant and a marijuana plant.'

"Mr. President, are we trying to see if the police and the DEA personnel have extra time to do additional work to monitor this pilot program? The answer is no! The police and the DEA are maxed out fighting the war on drugs! They are out-manned, out-equipped, and out-financed in their efforts on the war on drugs. In fact, we were told at the National Conference on the Council of State Governments at San Antonio, Texas, this past November, that the National DEA claims to have proof that illegal drug monies are financing the movement of hemp on the Mainland. You might ask yourself why is this. What's next? Ice? Cocaine? Even in this statement, and I quote again from the statement of testimony: 'Pro-legalization organizations, such as National Organization for the Reform of Marijuana Laws, support the hemp industry.'

"Mr. President, our State will be the first in the country to legalize industrial hemp. In fact, I was told that the proponents of hemp in other states are using Hawaii's proposed bill to sue Kentucky for turning down a similar bill

"Mr. President, I, like you, may have been born in the wrong era, (laughter) but what we are doing here is wrong. I do not want to learn more about drugs or how they grow or what oil they produce. I do not want to learn that because I know what it can do to young people. I know we are a long way from solving this problem of stopping public enemy number one. We cannot and must not legalize another drug and open the door for other drugs when we are having so much trouble controlling what we have on the streets today.

"I am familiar with the war on drugs in a small way. My wife and a group of ladies meet twice a month to make quilts for babies born to drug parents. They give away 35 to 40 quilts a month. That's a lot of babies born in our community with drug parents. The war is far from over. Let's not add another day.

"Let's not allow a pilot project on hemp or be the first in the nation to legalize hemp. This is not something that Hawaii should be proud of.

"Mr. President, hemp is a drug. Hemp will hinder the fight against drugs.

"I urge my colleagues who believe as I do to speak out today against this bill, on this floor. You must act now. The future of your young people and their children are in our hands. If this bill passes this floor, we will legalize hemp and it will be too late to stop it. Speak out! This is a conscience vote and a major one. This will forever affect the lives of our young people. And again, for those who will be going up, may God have mercy on your soul.

"For those of you who think you are doing the right thing, and bless your heart, or think that this is a section fight -- it is not; the meaning of a Chair loyalty -- it is not; a means of leadership -- it is not. This is a conscience vote and a major one. This will forever affect the lives of our young people. And again, for those who will be going up, may God have mercy on your soul.

"Thank you." (Laughter.)

The Chair then said:

"God's country, right?" (More laughter.)

Senator Inouye rose in support of the measure and said:

"Mr. President, should I say 'amen' to that?"

"Mr. President, I speak in support of this bill, and I for one have been against drugs and drug use for the years of my life. As a former mayor and former councilwoman, I've always supported the police and their mission. I have not turned down since I was mayor, any monies from the Feds to continue eradication of marijuana on the Big Island.

"Much has been said about industrial hemp, and I think there is some misconception about what this bill is before us. Much discussion has been made as to why is Hawaii the only state in our country to consider research. I'd like to share with my colleagues some information that I've received as well as the publication in my local newspaper the Hawaii Tribune Herald.

"Montana and Virginia have formerly called for an end to a federal ban on industrial hemp, which is grown in more than 20 countries for a variety of products including cosmetics, beer, plastics and paper. New Hampshire, North Dakota and Tennessee also are actively considering pro-hemp legislation, while lawmakers in New Mexico recently funded hemp research according to AgriTech Communications, Inc. which tracks the agricultural fiber business.

"We are talking about research, and we are talking about experimenting to find a hemp variety in which the THC content meets the international standard of 0.3 percent, or less, compared with 6 to 15 percent found in marijuana.

"Canada started allowing hemp production last year. Farmers planted 6,000 acres, claiming profits of as much as \$200 an acre at a time when growers struggle just to break even on traditional crops like wheat.

"We don't talk about the unemployment rate, as high as it is on my island, Mr. President. We're talking about those that are there who want to get into farming and experiment with other products.

"Proponents of hemp say it is the last thing marijuana growers would want next to their plants because cross pollination would diminish the potency of their marijuana.

"We are also talking about the research into the feasibility of producing industrial hemp in Hawaii, accomplished with the appropriate authorization from and within the controls of the Federal Drug Enforcement and Administration and the state Department of Public Safety. We're talking about utilizing the expertise at the University of Hawaii's College of Tropical Agriculture, and we're also talking about a very small parcel of land.

"I ask my colleagues to please let us consider doing this research. Otherwise, we would never know.

"Thank you very much."

Senator Slom also rose to support the measure and said:

"Mr. President, I rise to speak in favor of the bill.

"This bill's not about drugs. This bill's about agriculture. This bill's about economic development. It's about options. Isn't it interesting, though, that of all the bills that we've talked about today and debated, and bills that we still have yet to talk about that have tremendous significance on the fiscal situation of our people, this is going to be the one bill that's going to have the closest vote to it. The one bill that people have gotten so passionate about. They don't care about over-taxing, over-regulating. They don't care about the bankruptcies and the foreclosures, and the people leaving the State. They don't care about the uneducated children. But we care about industrial hemp.

"By the way, I don't pretend to be an expert, but my information is that industrial hemp is tall and reedy with very few leaves, and that other plant is short and bushy and leafy. There's a big difference.

"We're talking about a privately funded research to see whether or not we have another viable crop. We've lost sugar. We've lost a number of opportunities. We've lost jobs, local jobs. We're arguing now about forcing people into unionization to keep local jobs. This may be an opportunity to create more local jobs. It may be an opportunity to create jobs where jobs have been lost. It may be an opportunity to protect and preserve agriculture and open space.

"And we're the state that likes to be first, but we don't want to be first in this instance. Why? What is it that we're afraid of? We can't stand here and defend drugs. Nobody would. Nobody in their right mind would. But when the Senator from God's country talks about the war on drugs, he should know that the war has been lost. We have spent billions of dollars and we are losing more and more people all the time. Everything that we have tried is not working.

"But we're talking about economic development. We're talking about an optional choice for a potential crop. And will that crop be successful or viable? We don't know. That's what it's all about. We're not talking about legalization. We're talking about a simulated test under very strict conditions. We're talking about sterilized seed of a plant which is incapable of germination. And when we say that industrial hemp is related to marijuana or other drugs, it's like saying that table salt is related to a poison; tomatoes are related a poison; apricot seeds, if taken in enough quantity, are a poison and will kill you. There is that relationship, certainly. But, that's not what we're talking about.

And to cloud the issue and not give us an opportunity to at least find out if it's viable . . . Here we're not even using taxpayer money. It's private research. We don't have the luxury of saying, 'No, we don't want this.' And yet that's what we've done. We've turned down opportunities for a paper mill. We've turned down, initially, an opportunity for corn seed, geothermal. We've turned our backs on everything, and other areas would love to have these opportunities. We don't have the economic base nor the business climate to turn down

everything, and yet that is the reputation that we've gotten. So I think that we should take a chance on this because the chance is very well and carefully regulated and restricted.

"And finally, my colleagues were kind enough to serenade me today at lunch time because it is my natal day, but I share this birthday with Thomas Jefferson. Unfortunately, the Senator from Waipahu, even though he is an Aries, comes a day late, so he's a dollar short. (Laughter.) Thomas Jefferson wore clothing made out of hemp. He wrote famous speeches on paper made out of hemp. He used medicinal compounds made out of hemp. The colonists used building materials made out of hemp. They ate food made out of hemp. We can do these things again. We have an opportunity -- not because we want to advance drugs or we want to turn the other way, but because we want to look for something or many things that can give us agricultural choices and economic development.

"I urge my colleagues to vote 'yes' on this bill. Thank you, Mr. President."

Senator Sakamoto rose to speak against the measure and said:

"Mr. President, I rise to speak in opposition to this measure.

"The purpose of the bill, yes, as the Senator from Hawaii Kai said, is privately funding industrial hemp research in Hawaii. So, the war -- lost? Economic development -- take a chance? And please bear with me, I have some information to share.

"There's numerous reasons why H.B. No. 32 should be killed. First, hemp is a four-letter word -- D-R-U-G. Also, its value as a commercial product is highly questionable for the reasons I will give. Mr. President and fellow Senators, there is no economic or environmental justification for legalization and introduction of hemp cultivation. The campaign to introduce hemp marijuana as a viable agricultural commodity is one of a number of strategies being promoted by the pro-drug lobby to legalize marijuana. The introduction of hemp marijuana as a crop has been proposed for consideration by Canada's Parliament. In the United States, petitions have been distributed by the pro-drug lobby to place the hemp marijuana cultivation initiative on election ballots in several states.

"It's been said that the hemp marijuana campaign is particularly aimed at high school and college students who are being recruited by the pro-drug lobby, specifically using false environmental claims as a ruse. This is evidenced by the dramatic rise in marijuana hemp symbols, youth oriented products, pro-hemp marijuana clubs.

"Mr. President, the claimed advantages of hemp marijuana over raw materials are false. There is no need for products made from Cannabis sativa -- true hemp. Better alternate products exist in every case. Why are we wasting our time on a product of unproven commercial or environmental quality?

"Permit me to re-state this rationale from the Drug Watch International. First, many plants such as corn, alfalfa and other crops produce more tonnage, per acre, and are more soil-building than hemp. They are already meeting market demands for alternative fuels such as ethanol fuel. Hemp fiber is inferior for making rope, twine and other products where durability and strength are important. Unlike plastics and synthetics, hemp absorbs water, becomes heavy and rots easily. Cannabis cultivation has caused serious environmental consequences. The extensive use of herbicides and chemical fertilizers which are used in the process of Cannabis cultivation results in deforestation and soil erosion.

"The definition of industrial hemp, as stated in H.B. No. 32, means marijuana with .3 percent or less of tetrahydrocannabinols (THC). This level is one of . . . and the plant cannot be discerned by the naked eye, so let me reiterate -- you cannot see it. That means hemp could easily be diverted

into an illegal drug market. The cost to monitor this system would be incalculable.

"Mr. President, many of our seniors are claiming or believing that hemp has therapeutic benefits. In 1982, Surgeon General C. Everette Koop, who was just here, issued a warning against hemp marijuana use. In February 1994, hemp marijuana was disallowed as a medicine by the U.S. Department of Health and Human Services, the National Institute of Health and the DEA, also, because it repeatedly failed to meet any of the criteria used by the FDA for an approved substance as a medicine.

"Finally, Mr. President, like many of our colleagues, I'm a Lions Club member and hopefully a good one. Lions Club International and the Lions of Hawaii are very successful in a positive prevention program in our schools, called Lions Quest. This program was a result of a worldwide survey in 1983 to determine the greatest concern facing mankind and what we can do about it. The answer was, our young people of the world and what drugs are doing to them.

"Mr. President, this is an insidious disease. And it's been said that 85 percent of the inmates in our prisons are there because of drugs. However, with proper education and prevention, problems with drugs can be mitigated to some degree. This Legislature can help to mitigate this drug problem by not enacting well-meaning legislation that will do more harm than good.

"So Mr. President, I urge my colleagues to vote 'no.' Why should we waste time and money on a product that has absolutely no proven quality. Instead, we should focus on commercial activities in Hawaii that are being done. Diversified ag can be an asset for our community. So today is the time to kill this dangerous bill. We should not get on this slippery slope. Stay off. Vote 'no.' Tomorrow is too late."

Senator Iwase rose in opposition to the measure and stated:

"Mr. President, I rise to speak in opposition to the bill.

"Very briefly, Mr. President. We've heard all the arguments for and against -- the economic issue, the drug issue, the Abner Hale argument from the Senator from Waipahu -- 'God have mercy on your soul' argument.

"Mr. President, looking at this bill, it seems to me that it's premature. It says that you can allow this research to be conducted only when the Hawaii State Department of Public Safety, Narcotics Division, issues a controlled substance registration, and the United States Department of Justice, Drug Enforcement Administration, issues a federally-controlled substance registration. By the fact that those two registrations are required, clearly indicates that this plant and what is going to be produced is in fact a drug -- a controlled substance drug, an illegal drug.

"So therefore, it seems to me that rather than us having to go through this whole debate about whether or not this is or is not a drug, whether this is or is not bad for the drug war and whether we've lost the drug war, whether or not this is or is not bad economically so we should have research, we should get these departments to tell us that these registration certificates would be issued -- in fact, are issued -- and that the research can proceed in Hawaii with the approval of the Legislature. At this point in time, we don't have that.

"We have all this debate, and like I said, Mr. President, I think it's premature. We don't need this bill at this point in time. And clearly, even if we passed it, it would need federal approval and I don't know if the federal government has given approval anywhere, which means we've gone through this whole debate and exercise over the last 20 minutes for nothing.

"Thank you."

Senator Anderson rose to support the measure as follows:

"Mr. President, I'll be voting for the bill.

"My understanding of federal government is, as long as they don't have any laws or they're opposed to something, we have a right to pass our own bills.

"Let me tell you, I think that when we allow a privately funded research, that's fair and equitable -- on a quarter acre. We earlier passed an exchange of lands which, according to what I have here, is completely illegal according to our laws. But we exchanged them because you folks thought that was great. That can be challenged in court, I guess. But this is privately funded. This doesn't give someone a chance to go and find an investor. This one here, this person already found someone to do the research and pay for it on a quarter acre of land.

"I told you the other day, or I told some of the people in committee, liquor used to be illegal. We made a law that made it permissible. Nobody's ever come up with let's get rid of that law. They want to just tax it more. That's the only problem.

"How many of you here would have voted to allow marijuana for medical purposes? If that was on before you, you would have allowed it. Maybe Senator Kawamoto and a couple of others wouldn't, but it would have passed. Everything that we heard in Judiciary, we had maybe 20 that I can count, 20 different things that were brought in from different parts of countries that were made with hemp. I was not really opposed, but I had some reservations on hemp until we did more research. I can remember when Representative Tarnas first brought forth this idea. I read everything that I could. I didn't think it was a bad idea. And to have a study, I think is a very good idea. Most of you come from good plantation areas. I did in Waimanalo. When I went to school, plantation was working. I said the other day we had the highest paid plantation workers in the world. Today we have the highest paid unemployed plantation workers in the world.

"This is to help put people back to work if it's a good product. There's all different kinds of by-products that you can get from hemp. I also explained the other day one of the by-products we used to have for sugar was canec. I just removed a 50-something year old ceiling made from canec. It was a good by-product. With scientific studies it would probably be as good as what we have today called dry-wall. But we put them out of business -- a by-product that would have been great.

"We need to help, as much as possible, our people move forward. Now, the good Senator from Waipahu said we're the first that's going to be doing this. Now, if they want to push something, I always hear the Majority say, 'This is going to be the first. Our state is going to be a leader. It's a class act.' But when you want to kill something, 'Oh, we're going to be the first to ever introduce this kind of bill. It should not move.' I'm never sure what you folks want to do -- be the first because it's good, or if you want to kill it, we're going to be the first because it's bad. It all depends on how you write, how you raise your voice and how you drop it.

"We're here to see if we can move something that's fair and equitable for agriculture. It doesn't say for drugs. I'm opposed to drugs. But this was brought out in the hearing that there was a vast difference and it's going to be under all kinds of scrutiny. And I've said the police department and others may be against it, but once it's passed, then they would have to make sure that others don't take advantage and misuse the law that we make a law that's equitable for everyone in the Department of Ag.

"So I would hope that you would look at this in a very fair way that's something that's not going to cost you because the taxpayers aren't paying for it. A private individual is. And I have to give credit to a representative that goes out and finds something who's willing to put their money up if we will

provide the necessary tool for them, not somebody who says, 'We want an exchange of land, however, we don't have the investor right now. Later on we'll come forth with one.' And you say, 'That's a good idea. It's going to help the economy, \$2 million, construction.' It's all right to help one group but not the other. And that's not fair.

"So I'll be voting for this regardless of who put it in, why they put it in, as long as it's going to help our people, I think it's fair and equitable.

"Thank you."

Senator Matsuura rose in opposition to the measure as follows:

"Mr. President, fellow colleagues, I kind of find it a little bit ironic that I'm standing in opposition to this bill since this research money, as everybody touts on, will be coming to my district. This is an economic development project for my district or our island. The sponsoring Representative is the Representative from Hilo, and as some of you may know, I was the sponsor of the companion Senate bill. (Laughter.) But after being much lobbied and much researched on this project, especially what really changed my mind and why I am standing up in opposition is, after 4 hours of testimony in Hilo with the House Committee on Agriculture in Hilo, it really proved to me that this is not a viable crop.

"What I want to concentrate right here on is that this is truly an economic development . . . it is being pushed as an economic development project crop. All the testimony in favor of it was from the people who are using it. And all of them were very consistent. They obtained the raw material from China. And I do not know any agricultural business that can compete on a raw product using a raw material with a third world country. Why do they want to spend \$200,000 in Hawaii when our land base is so small compared to any of these third world countries? I'm not really quite sure.

"Two hundred dollars an acre, as my fellow Senator from Hamakua said . . . orchids, what I'm growing, we gross over \$30,000 an acre. That is one crop. Anthuriums is something similar. We have other crops. We have a lot of other crops that we can investigate and put money into that would greatly help our economy and not have all these other problems that this crop has.

"Another one of the things that I want to address, for my colleague from Hawaii Kai, is that this is Cannabis sativa. This is the same product, so it is a drug.

"As many of you know, a Maui onion is a Texas round onion. But what makes it so great is our environment, our tropical environment and our growing conditions. From people that I have talked to within the drug enforcement, this Cannabis sativa will turn into the high value, the high THC illegal crop, not into this fibrous crop that supposedly is used in various products.

"I'm not against all of it. There is a worldwide use for hemp. However, after consulting with also the largest landowners within our island -- Brewer Industries and Bishop Estate -- they have no intention and they will not grow this crop. So we do not have the land for it. We do not have the ability to grow it, and financially, I don't think this is a viable crop for Hawaii. And with all the related problems, legally, the drug-related problems, I think that maybe we should extend more of our efforts to other crops that show more potential.

"Thank you."

Senator Hanabusa rose to speak against the measure as follows:

"Mr. President, I rise to speak in opposition to this bill.

"I'd like to thank my colleagues -- the Senator from North Hilo, the Senator from East Maui and the Senator from Palolo-Waialae -- for all their hard work on this bill. And I also believe that we must recognize the Representative from the Windward side who should really give registered lobbyists a lesson on how to lobby. She's done a very good job on this bill.

"My opposition follows what the Senator from Kaneohe stated earlier, when he was speaking in opposition to the education bill, that is, What are we going to stand for? Mr. President, you and I had a passing discussion about how people remember us for the oddest things. It is my belief that they may remember us for the hemp bill. And that's not a message that I want and neither is it a message that I wish to validate.

"This bill does make a correct statement as to: how we view economic development, how we view the use of public funds, and really, how we define our future. And this bill is full of contradictions. Let's look at it. The first question which the Senator from God's country, as well as Moanalua, raised, was whether or not this is drug related. Is it pakalolo or is it not? We're being told it's not pakalolo. It's definitely not pakalolo. But look at the bill. Look at what it says. It's trying to define industrial hemp. This is because industrial hemp doesn't exist. We don't know, as our colleague from Hilo said, whether due to tropical conditions it will flourish into pakalolo, no matter what anyone does.

"Look also at what the bill calls for. The bill calls for the Department of Justice, DEA, to issue a registration of research. It calls for the Department of Public Safety to issue a controlled substance registration. The bill also requires that there be monitoring, basically, by the Department of Public Safety in cooperation with the DEA and the appropriate county law enforcement agencies. Colleagues, that's a cost item. Who's going to pay for that? And if this is such a wonderful product, why are we having to monitor it? Why do we need to know whether the THC reaches '.3%'? It's because at that point it is pakalolo.

"My colleague from Hawaii Kai who hates special funds, I think that if there is any evidence of where a special fund may be necessary, it's here. The people who proposed this crop can pay for the additional costs for the Department of Public Safety, for DEA, as well as for the respective county agencies.

"Let's look at it in terms of economic development and what does it say. We already talked about the cost of monitoring. What kind of economic development are we talking about here? We have spoken about technology. We have said that's the way we want to go. We have spoken about ecotourism. We speak about the environment. We speak about wanting to have agriculture developed in a way that it is environmentally sensitive. Here we have a product that can deposit a foreign substance into our economy and into our agriculture base. Do we want to do that?

"And hemp is like my colleague from Hawaii Kai said -- it's not a new product. He mentioned Thomas Jefferson and the fact that he wrote on hemp and he wore hemp, and he went on and on. Yes, hemp was in the United States and it was pretty active until the 1600s. What's the significance of that? They lost slavery, and therefore it became an uneconomical crop. Hemp is a labor intensive crop. That's probably why Thomas Jefferson could do it and we haven't heard about anyone subsequent to that wearing hemp or writing on hemp.

"Now, we've also had reports. We've seen it in the committee reports that 30 countries are growing it. We've heard our colleague from Hilo say 20 countries are doing it. If that's the case, why do we have to do it? Why Hawaii? Why do we need to create this plant? -- a plant that if it doesn't work, we definitely don't want it here.

"What's really troubling, colleagues, is the fact that I see this bill as a request for us to validate something. If this is a measure that requires the DEA to give a permit or give permission, then let them go to the DEA. Why do we have to intervene? That's not necessary. This is not a message that we want to send to the public, because when we talk about economic development, colleagues, we talk about it responsibly. We talk about it knowing that there is a potential and there is a future. If we wanted industrial hemp and if we believed that this was not a product that would cause us any problems with federal agencies or all of our law enforcement agencies, why does this bill have the conditions in it? If we believe in it, then we should stand behind it, not put onerous conditions on it. But the reason the onerous conditions are there is because we don't know what kind of product we're going to get.

"Colleagues, I'm voting in opposition and I ask you to do the same because we should not be the guinea pig. If we're going to do anything, we should have some sort of assurance of success. And my learned colleague from Hilo, if there's anything I will always defer to him on, it's agriculture. If he says that this is not a viable crop and probably what's going to happen is we're going to have a very high level potency, I am more inclined to believe someone who has the experience than someone who does not.

"Colleagues, I believe this is a bad bill. It sends a bad message and we should vote it down.

"Thank you, Mr. President."

Senator Matsunaga rose to speak in support of the measure and said:

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

"First of all, Mr. President, I applaud the anti-drug efforts of the Senator from Waipahu and let me assure him that I still hold him in the highest esteem. I simply disagree with him that this issue has anything to do about harmful drugs.

"Mr. President, one of our late colleagues used to always stand up and talk about the common sense law, and when something didn't meet the common sense law, he used to criticize it, and oftentimes he'd be the only voice criticizing a bill or a measure.

"I think it's appropriate to dispel some of the myths about industrial hemp, which is presently cultivated, as people have said, in over 30 countries for use in making building and clothing materials and personal care products. And I think the Economic Development chair has done a very good job of addressing the positive economic development aspects of this crop, which would further diversify our agricultural industry and allow us to compete in a global marketplace.

"First of all, myth number one -- I've heard that some people fear that we will be endorsing the production of marijuana by passing this bill. That's simply not true. Industrial hemp is a non-intoxicating form of cannabis with 3/10 of 1 percent of the controlled substance THC. It is physically and chemically distinguishable from its intoxicating cousin, marijuana, which is cultivated at about 18 percent THC or higher.

"I understand that hemp is tall and unbranched and cane-like, as the Senator from Hawaii Kai has stated, about 8 feet and taller, whereas marijuana is short, branched and bushy, only a few feet tall. The plants are grown differently, as well. Hemp is spaced only a few inches apart in the field, and marijuana is spaced several feet apart for maximum exposure to the sun to produce a large, leafy plant with abundant branches containing numerous flowers. Thus, hemp is of little or no interest to drug dealers. Police and growers in those 30 countries do not report pilfering of field materials. Law enforcement officials in these

countries have no difficulty distinguishing between hemp and marijuana in the field.

"Mr. President, mistaking marijuana for industrial hemp would be like mistaking Danny Glover for Danny DeVito or Penny Hardaway for Penny Marshall, or Arnold Schwarzenegger for Arnold the pig. It simply doesn't make sense, Mr. President.

"Myth number two -- I've heard that this is a Republican measure and therefore we shouldn't support it. First of all, 19 of the 21 co-sponsors of the measure are Democrats including the chairs of the Health, Judiciary and Finance Committees of our House colleagues. Further, regarding Republican issues, believe it or not members, some good ideas actually do come out of our Republican dynamic duo over there, and need I remind us that it was a Republican, Representative Barbara Marumoto, who spearheaded the measure of limiting passengers from riding in the back of pickup trucks. So, to simply not support a bill because it may have come from Republicans, it just doesn't make sense.

"Myth number three -- I've heard that bad people, such as marijuana growers and those who want to legalize it, support this measure. Again, we don't have evidence of this in our committee. Not one of the people who supported, for example, medicinal marijuana, contacted us or submitted testimony in support of this measure, and we had about 100 people contacting us on that measure. In fact, the marijuana growers would likely be opposed to this measure because industrial hemp, if cross-pollinated with marijuana, taints and reduces the THC level in the marijuana plants. And besides, not all bad people support bad ideas. One of our favorite antagonists, Fidel Castro, loves baseball; and Larry Flint was a strong supporter of First Amendment rights, Mr. President. You don't oppose a good bill because bad people support it.

"Myth number four, Mr. President -- I've heard that the law enforcement community is unanimously opposed to this measure. Again, this is not true. While we have received testimony in opposition from three members of the Law Enforcement Coalition, the Law Enforcement Coalition did not take an official position on this measure. The Department of Justice did not oppose this measure. The County Prosecutor from Kauai did not oppose this measure. The County Prosecutor from Maui did not oppose this measure. The County Prosecutor from the Big Island did not oppose this measure. The Department of Public Safety did not oppose this measure. And we did not hear from the Attorney General, either. Mr. President, to compare that to another issue, for example gambling, they all came out in full opposition to that measure.

"Mr. President and members, if we are truly concerned about substance abuse, let's focus on the real problems we have with alcohol and tobacco use amongst our young people. If we are really concerned about illegal drugs, let's focus on fighting the use of crystal methamphetamine, crack cocaine, and the intoxicating form of marijuana. Let's focus on measures that provide funds for substance abuse treatment and education and prevention programs aimed at our youth.

"Let's not be diverted from our efforts to support economic development by myths about industrial hemp. Through this measure, we are being asked to support a quarter acre research project which will be the most scrutinized piece of property in the State. Federal, state and local law enforcement agencies will be monitoring the site per both federal and state laws. Trying to grow marijuana within this proposed quarter acre research project would be like trying to sell marijuana brownies at a SHOPO bake sale, or it would be like trying to hold up your parole officer. Mr. President, it just doesn't make sense.

"We don't prohibit poppy seed muffins because they come from the same plant as opium poppy. We don't prohibit the carrying of baking soda in a plastic baggie because it can be

confused for cocaine. We don't prohibit farmers from having roosters because they can be trained as fighting cocks. And we shouldn't prohibit a quarter acre legitimate research project with a potential for economic diversification and competition within a global marketplace because of myths and unfounded fears. It just doesn't make sense, Mr. President.

"And finally, I'd like to leave you all with a poem:

I once knew a man, not too bright,
Smoked industrial hemp, day and night,
Till he said with a sigh,
This stuff won't get me high,
So he built products sturdy and light.'

"Thank you, Mr. President."

Senator Chumbley also rose to support the bill and said:

"Mr. President, I rise to speak in support of this measure.

"Colleagues, this is not about drugs. And Mr. President, I'm not for drugs, and colleagues, I think you know that. In the last five years that I've sat as either a chair or a member of the Judiciary Committee, my record supports that. I am against drugs. But this bill is not about drugs, or have I said that, Mr. President.

"One of the things that I think this is about is biotechnology. Seiji Naya, in his testimony before our committee, submitted a statement in the February 1999 issue of Ag Fiber Technology News. The publication notes, 'Hawaii's bill will probably pass and could lead to the emergence of Hawaii as a prime seed development and research area.' Mr. President, that's about biotechnology. This is not about commercialization. We are not legalizing hemp for commercial purposes.

"And for those colleagues who want it to be the first in the nation, I hate to disappoint you but there's a press release out this morning -- 'North Dakota poised to become the first state to legalize industrial hemp. Several U.S. states have been competing to become first to re-commercialize industrial hemp. North Dakota looks to be the winner. A bill in North Dakota now awaiting the governor's signature declares "Any person in this state may plant, grow, harvest, possess, process, sell and buy industrial hemp after complying with licensing procedures.' This House bill, H.B. No. 1428, passed yesterday in the Senate on a landslide vote of 44 to 3 and just a few days before in the North Dakota House on an 86 to 7 vote.

"They're going to commercialization; we're talking a 10,000 square foot research project, DEA permitted, Department of Public Safety permitted, and also monitored by the local law enforcement agency. We're not talking about drugs, here. We're talking about biotechnology.

"I ask all my colleagues to please consider support for this measure, and if you have concerns, I think any reasonable person, when you explain to them what it's about, will understand that you too do not support drugs.

"Thank you."

Senator Kawamoto then stated:

"Just a short rebuttal, Mr. President. I was called by Major Carvalho, Deputy Chief of the Honolulu Police Department. Again, I've known this gentleman for many years and his interest was deeply involved with the trafficking of drugs and concern of this bill. The rationale . . . I asked him how come they haven't really fully come out for that. They said they expanded all they could in the House side of this Legislature.

"As you know, when we introduced or entertained the gambling bill, we were the first, and that's why they came out. But to say that they weren't there, maybe they weren't there at

our Judiciary, but they were there at the House Judiciary. I had the opportunity to be one of the first people to go through the Citizens' Police Academy. It was a 15-week training and someday I hope that I can nominate the co-chairs for Judiciary to attend that class and understand what the police have to go through. We can do that.

"Thank you very much."

Senator Anderson rose and said:

"Mr. President, slight rebuttal or really some information.

"I keep forgetting districts, but our Senator from Maui and the other one from Palolo or Kaimuki, I believe they could give a little background on the Big Island where we have a substance that's really a drug plant, which is the cocoa plant. And it has the same specifications, scrutiny, from the testimony we got the other day. And that's more of a drug than this one is.

"And also, as far as it being a Republican bill, I want you to know that when I was in the House, it was on Saturday afternoon, Representative John Medeiros at that time and myself happened to be in a hearing that Representative David Hagino was doing. We voted and were speaking against the bill. He called a recess and took us out and he said that's a Republican bill. And we said, 'Well, it's a little too late now. We already talked against it so we're going to vote no.' See, we don't look at the end to find out who put it in. Is it a friend, a foe, or whatever? It was a bill that took away the rights of people, so we voted against it. And that's what I'm trying to get everybody to realize.

"You know, 2 to 23 makes it rather ridiculous to all of a sudden say that it's a Republican bill so it's 'no.' If it's good for what we're doing, Mr. President, I would hope that we could move forward on the basis of the bill, rather on the basis of political parties.

"And I do thank the two chairmen. In fact, if I may, Mr. President, I'd like to have Senator Matsunaga's words put in the Journal as though they were my own, including his little pun at the end.

"Thank you very much."

Senator Sakamoto rose again and stated:

"Mr. President, I know proponents say it's only a quarter acre, but we're here to deal with our future. Let's say that the proponents prevail, and let's say the quarter acre prevails, and let's say that the DEA, after scrutiny, allows this, and let's say the crop is a good crop. Let's say it's better than the North Dakota crop. Then what? Then what? Then we say, 'Oh, a quarter acre works. In fact, why don't we do 40 acres? In fact, why don't we do 640 acres? In fact, why don't we let everyone grow their own crop? The poor farmers of Hamakua need crops. Let them grow hemp!'

"Now, Ka'u guys might say we want to grow it too. So what do we create? Quarter acre plots experimental in everybody's backyard. And you can say, when they grow 8 feet tall, 16 feet tall, 48 feet tall, sure. You can say we're going to control the seed -- sure! Who? This is ridiculous! Where are we going? Who says we can compete with China and who the heck says we're going to compete with North Dakota? Crazy!"

Senator Slom also rose again and said:

"Mr. President, are we still on the same bill?"

"This is really great. And the interesting thing is, when we take this vote, you know when they talk about strange bedfellows and all that, it's going to be terrific. But I've heard things today that I've never heard before.

"First we were told that this crop was not going to be viable. Now we're told that it could be so successfully viable that we're going to stop the farmers from growing it. Now, farmers will only grow something if they can make money and if they think it's valuable. I agree with what was said earlier -- let the farmers decide and all of that.

"Then, I never thought, Mr. President, I would hear a Democratic colleague, especially one from beautiful Waianae where they don't have rock roads, complain that we can't have an economic alternative because quote, 'It would be too labor intensive.' My God! Here we are talking about trying to create more jobs and everything else and now the Majority party members, some of them, are saying that we don't want this because it could be too labor intensive.

"I remind our colleagues again, the seed that is brought in here is sterilized seed, so it's not going to create anything else; it's not going to germinate; it's not going to do any of those other things.

"I would like to have other crops and other options too. But where are they? Where are they? Where are the people that have offered other crops and other options? Where are the investors? Here we have a private investor. Here we have a specific crop. Here we have somebody who thinks that they can make money and can do it. And they may be wrong, but it's their nickel.

"And I guess finally . . . oh, two things. We talk about technology. If we really want to talk about technology, the most technology that our country and the world has ever seen has come out of agriculture, agricultural products and diversification.

"But finally, I think we should ask ourselves since, Mr. President, as you know, the Governor and I are like that. (Laughter.) The Governor owns and, I am told, wears two industrial hemp aloha shirts. I want to know and I think we should investigate whether or not he got those shirts as a result of the international drug cartel. (Laughter.)

"Let's be serious, as has been said. Let's be rational, as has been said. And I would much prefer if we had battled over tax bills and over the budget and all of those other things, but we're not. We're battling over this. And what it shows is, we don't have the capacity in this building to allow the free market to work and to allow entrepreneurs to risk their own funds and to do things differently. Let's give it a chance. I don't want to be the poster boy for industrial hemp, but on the other hand, I don't want to be the person that always says we had an opportunity and yet again Hawaii said no.

"Thank you, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1574 was adopted and H.B. No. 32, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 12 (Buen, Bunda, Chun, Hanabusa, M. Ige, Iwase, Kawamoto, Matsuura, Nakata, Sakamoto, Tam, Tanaka).

Stand. Com. Rep. No. 1577 (H.B. No. 294, H.D. 1, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1577 be adopted and H.B. No. 294, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsuunaga.

Senator Chumbley rose and said:

"Mr. President, I rise in support of the bill and I have some written comments to be inserted into the Journal. Thank you."

The Chair having so ordered, Senator Chumbley's remarks read as follows:

"Mr. President, although First Amendment rights may be implicated by the restrictions on the distribution of tobacco promotional products and materials, the State has a compelling interest in reducing illegal sales of tobacco products to minors -- **PROTECTING THE HEALTH AND SAFETY OF OUR YOUTHS**. Because promotional items are all too often used to deliver a selling message to children, and because there is no way to limit the distribution of these products to only adults, such products may be permissibly banned without offending the First Amendment (Commercial Speech).

- 3,000 children become regular smokers every day; that amounts to 1,000,000 per year.
- Over 80 percent of adult smokers started when they were children or adolescents; virtually no one over the age of 21 becomes a tobacco user.
- 30 percent of kids aged 12-17 years old, both smokers and non-smokers own at least one tobacco promotional item such as t-shirts, backpacks, or CD players. These items turn kids into 'walking tobacco billboards,' bringing tobacco advertising into places such as schools where tobacco advertising would otherwise not exist.
- Tobacco companies annual spending on promotional items quadrupled, from \$184 million to \$756 million in just two years from 1991-1993.
- The distribution of brand name promotional items is a major component of the tobacco industry's marketing strategy. The industry spends over \$600 million annually distributing such products.
- The public overwhelmingly supports restrictions on tobacco advertising. 83 percent of adults believe that images such as Joe Camel should not be in magazines read by kids. 78.7 percent believe that advertising such as the Marlboro Cowboy on t-shirts, hats, backpacks, etc. used by kids should be banned.

"Mr. President, for all the above reasons I urge all my colleagues to support this measure."

Senator Sakamoto rose to speak in favor of the measure with reservations:

"Mr. President, I rise in support with reservations.

"Certainly, there was a tobacco bill before us and that bill was a little better, but this one, you know, nobody likes tobacco as far as its harmful effects on our young people. However, the reservations are because this bill is too broad.

"This is yet another example of big brother trying to help little brother. And I understand the purpose. Our young people are everywhere -- in our schools, public and private, on the streets, buses, businesses, concerts, athletic activities. So what's next? This bill says 1,000 feet. Maybe it will be 2,000 feet, maybe 1 mile. What's next? Soda water? Chewing gum? Tight jeans? You know, what have you. Hemp pants? (Laughter.)

"I vote with reservations, Mr. President."

Senator Slom then added:

"Mr. President, after that passionate display from the Senator from Moanalua, I must vote with reservations also."

The Chair so ordered.

Senator Anderson then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1577 was adopted and H.B. No. 294, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISTRIBUTION OF SAMPLE TOBACCO PRODUCTS AND TOBACCO PROMOTIONAL MATERIALS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1578 (H.B. No. 1073, H.D. 1, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1578 be adopted and H.B. No. 1073, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Sakamoto rose to speak with reservations on the measure and said:

"Mr. President, I rise with reservations on this measure.

"I support the committee's efforts to protect the public and prevent telemarketing fraud. It's especially important that we protect the vulnerable members of our society that are being victimized by criminals operating fraudulent telemarketing schemes.

"However, Mr. President, we must remember that telemarketing, in and by itself, is not illegal. It's a marketing and promotional tool utilized by many legitimate businesses. Even if we find some of them irritating or inconvenient, we should not be criminalizing them. For example, this measure would criminalize the use of an auto dialer to initiate outbound calls resulting in a call abandonment rate of greater than 5 percent. Now, what does that mean and how would we predict an abandonment rate prior to calling? Why should that be illegal, Mr. President? So I have reservations.

"Thank you."

Senator Slom rose to speak on the measure with reservations:

"Mr. President, I, too, have reservations for many of the same reasons that the good Senator from Moanalua mentioned, plus the fact that in this bill it defines an abusive practice as allowing the telephone to ring 7 times. I want to know, Mr. President, who's going to be counting the rings? The person on the receiving end or the person on the calling end or is it going to be labor intensive so we have a ring counter for this. This bill is much too broad.

"Thank you, Mr. President."

Senator Iwase then requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Anderson rose to oppose the measure as follows:

"Mr. President, I'm going to be voting 'no' on this particular bill, and I did so in committee because there was no proof that there was any fraud at this time. They said there might be later on and also that they were going to be helping to protect the elderly because they were more inclined to be the ones that were going to be, I guess, abused and smooth talked into telemarketing fraud.

"I think that as a senior citizen I'm as well educated as the rest that I do not have to accept something if I don't want to. And why should we go ahead and put a bill when there is no fraud at this time? There hasn't been any reason to even think we're going to have fraud, but they're anticipating. All the studies that they have done, I guess, it might be in the future.

They're not sure when. But it is something that we don't need. It's just another bill, so I will be voting 'no.'

"Thank you very much."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1578 was adopted and H.B. No. 1073, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TELEMARKETING FRAUD," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Anderson). Excused, 2 (M. Ige, Matsuura).

H.B. No. 996:

Senator Chumbley moved that H.B. No. 996, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Slom rose to speak against the measure and said:

"Mr. President, I rise to speak in opposition to the bill.

"I think we have seen a steady progression of turning out the lights, blinding the sunshine in our meetings, and we're giving too many exceptions to those meetings that do not have to follow the State sunshine law. And I think that the decision here to allow the Board wider discretion in determining what can be kept private is not a good move. Those of us that have kept up with this issue over a number of years have seen that even though we have laws on the books, we probably have less access now than we've ever had before. So, I'll vote 'no' on the bill."

Senator Tam requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 996, entitled: "A BILL FOR AN ACT RELATING TO MEETINGS OF STATE AND COUNTY BOARDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Anderson, Slom). Excused, 1 (Matsuura).

H.B. No. 642, H.D. 1, S.D. 1:

By unanimous consent, H.B. No. 642, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY," was recommitted to the Committee on Commerce and Consumer Protection.

Stand. Com. Rep. No. 1582 (H.B. No. 753, H.D. 2, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Buen and carried, Stand. Com. Rep. No. 1582 was adopted and H.B. No. 753, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF SPECIAL IMPROVEMENT DISTRICTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Levin, Matsuura).

Stand. Com. Rep. No. 1583 (H.B. No. 989, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1583 be adopted and H.B. No. 989, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1583 was adopted and H.B. No. 989, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Anderson). Excused, 2 (Levin, Matsuura).

Stand. Com. Rep. No. 1584 (H.B. No. 1017, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Buen and carried, Stand. Com. Rep. No. 1584 was adopted and H.B. No. 1017, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Levin, Matsuura).

Stand. Com. Rep. No. 1585 (H.B. No. 8, H.D. 1, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1585 be adopted and H.B. No. 8, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1585 was adopted and H.B. No. 8, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Levin, Matsuura).

Stand. Com. Rep. No. 1588 (H.B. No. 1080, H.D. 2, S.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Stand. Com. Rep. No. 1588 was adopted and H.B. No. 1080, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NAMES OF CORPORATIONS, PARTNERSHIPS, AND LIMITED LIABILITY COMPANIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Levin, Matsuura).

Stand. Com. Rep. No. 1589 (H.B. No. 1111, H.D. 2, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1589 be adopted and H.B. No. 1111, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Tam rose in opposition to the measure and stated:

"Mr. President, I'm voting 'no' on this bill for two reasons. Number one, the State of Hawaii already has provisions and guidelines in regards to lawsuits. Number two, this bill desired by the state administration and private sector displays the lack of self confidence and unwillingness to take care of the Y2K problem.

"Thank you."

Senator Nakata rose to speak against the measure and said:

"Mr. President, I rise also to speak in opposition to this bill.

"I believe that with this bill we are immunizing those who are most able to protect themselves and take on the computer manufacturers who have created the problem, and at the same time we are taking away the rights of those who are least able to defend themselves.

"Thank you."

Senator Chumbley rose and said:

"Mr. President, I do have written comments in support of the measure and I'd like to have them inserted into the Journal."

The Chair having so ordered, Senator Chumbley's remarks read as follows:

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

"How is the Y2K bill ok for the consumer?"

"Private section: The basis effect of this bill is not 'immunity' -- more accurately, it is a codification of how the negligence standard applies in the Y2K area. This bill will not prevent consumers from recovering for Y2K injuries. In fact, it will even allow them to recover out-of-pocket costs when a defendant was not 'negligent' -- it took all the steps that were commercially reasonable, on time, but there was a problem anyway -- which is more than a consumer might get without the bill.

- So why are businesses behind this? Because it will provide greater certainty about what steps they need to take to not be at fault. In other words, they want a clearer definition of what they need to do to avoid being at fault. That will insulate them from liability only in the sense that if they follow all the remediation steps in timely fashion, they know they're not likely to be liable for any incident that occurs.
- Where there were 'tort reform' type provisions in the bill that could operate in an anti-plaintiff way, the committee took them out. This includes a cap on non-economic damages, an exclusion from joint and several liability, and a provision limiting the circumstances in which punitive damages could be awarded.
- The Alternative Dispute Resolutions in this draft of the bill allow for greater flexibility, and thus will help consumers and businesses both determine a form of ADR appropriate to the case. Instead of having a mandatory arbitration provision similar to the CAAP program, when a Y2K case is filed, as soon as all the pleadings are finished (complaint, answer, counterclaim, etc.) the parties will meet with a judge and try to come up with a form of ADR that works for them all. That might be mediation, one of the many forms of arbitration, minitrial, or whatever the parties think will work best for them. Parties may also choose to remain in the court system. This is expected to help these cases reach conclusion considerably faster than the average court case. Of course, parties can always choose to use ADR from the beginning without ever filing a court case; the ADR provision simply helps those who do start out in court to get together and figure out an appropriate method of ADR.
- This draft excludes software and hardware manufacturers from the coverage of the bill. While it may be confusing to have potentially different standards applicable to different parties in a complex case, excluding software and hardware manufacturers should reassure those who are concerned that a Microsoft will somehow get an easy escape from liability through this bill.
- In a final effort to help consumers, this draft of the bill includes a provision barring creditors and credit reporting

companies from reporting negative credit information about consumers resulting from Y2K problems. This would be the most likely negative outcome from Y2K hang-ups in financial transactions.

"Public section: The public section of the bill provides the government with qualified immunity, not absolute immunity, for Y2K errors caused by government computer systems.

- Thus, a person can recover against the government for gross negligence (actions in good faith aren't gross negligence). So the bill will not cut off an injured person from recovery against the government where someone in the government screwed up big time; but it will help protect the State's financial resources by preventing the government from having to argue the case where the government might or might not have screwed up in a small way. The government has an actual immunity, unlike the private sector, but it's still a limited immunity.
- An individual (or the State) can still sue a software or hardware manufacturer or supplier who supplied the computer system to the government.

"How will this apply in the real world?"

"A selection of hypotheticals:

"Mom and Pop Store v. Everyone Responsible for the Accounting and Register Systems.

"Mom and Pop store had (1) failure of its accounting and check-making software, resulting in late payments to suppliers and trouble for store, and (2) failure of its credit card readers and cash registers. They blame Computer Village, which sold the accounting software, and NCR, which sold the credit card readers and cash registers.

"So, Mom and Pop file their lawsuit, and Computer Village brings in Evilsoft, which made the software, and Hell Computer Corporation, which provided the computers it ran on. Evilsoft's, Hell Computer's, and NCR's liability aren't affected by the Act. Computer Village's liability falls under the act.

"Whether the parties use ADR or stay in court,** Computer Village's liability will be determined by the Act. So, the question will be, did it take timely, commercially reasonable steps? In this case, it probably did. Computer Village would not have been able to do much about the Evilsoft software (it couldn't unilaterally change the code). Perhaps it reasonably relied on Evilsoft representations that the software was Y2K compliant and sold it on that understanding. If Computer Village took commercially reasonable steps, then Mom and Pop can still get the price of the software and the fee they paid to a computer guru to come in and fix the bug (their out-of-pocket costs) from Computer Village. Against Evilsoft, Hell, and NCR, their claim will proceed under current liability principles (probably product liability, negligence, and breach of contract).

** How do they decide whether to use ADR? After the complaint, answer, 3rd party complaint and answer, and any counterclaims, are all filed, all the parties meet with a judge to try to put the case into alternative dispute resolution. This is very early in the lawsuit, so the parties have not spent much on attorney fees yet. Now they can decide what form of ADR will work best in this situation, and move into ADR to resolve the dispute quicker. Or, if they prefer, they may stay in court.

"Small-time Contractor v. Supplier.

"Jane Q. Contractor does work at less than \$1,000 a job -- no contractor license. She specializes in building walls. Despite the bad economy, Y2K paranoia has led many people to contract for her services and she has orders for walls to be built through March 2000. A Y2K problem at Aloha Cement, one of her suppliers, messes up her supply line. Aloha Cement is

focused on getting cement to its bigger customers and Jane doesn't get new cement supplies until late February. By then, she's long since run out of cement and has had to cancel or delay a bunch of contracts, exposing her to lawsuits and disgruntled customers.

"The issue between Jane and Aloha Cement will be whether Aloha took commercially reasonable steps. Let's say Aloha started looking into the problem early on, but it didn't do any tests of its Y2K fix until 2 weeks before the end of 1999. When the test showed a problem, all they could do was try to fix the new problem and cross their fingers. That was probably not a timely implementation of the steps, so Aloha's actions were probably not commercially reasonable. It looks like Aloha will be liable to Jane for all her damages, including her loss of business goodwill.

"Meanwhile, Aloha blames its Y2K problems on TechGods, the computer consultants it hired to help make sure its proprietary software was ready for Y2K. TechGods claims that because Aloha didn't hire it until it already was too late for TechGods to do a full fix considering its obligations to all its other clients, it was Aloha's own fault that the fix was not timely. If TechGods didn't do the remediation steps for Aloha in timely fashion, but Aloha was also untimely in when it hired TechGods, TechGods will be liable to Aloha for Aloha's damages (including the damages Aloha is having to pay to contractors like Jane), but the damages will be reduced to the degree that Aloha's own untimeliness caused the problem.

"Dead Patient's Family v. Hospital.

"Alii Hospital has been looking at the Y2K problem for several years, and has run tests of all its major systems. When the big odometer turns over, the power, the lights, the ICU machinery, all continues to work. But 7 years ago, the hospital gave Guy Make a pacemaker. It sent all its pacemaker patients a brochure asking them to come in for testing, but Guy Make had moved 3 times since the surgery and never got his. At the last stroke of midnight, his pacemaker turned itself off for 93 years and Mr. Make had a heart attack and died. Now the Make family is suing Alii for wrongful death.

"The issue between Alii and the Make family will be whether Alii took commercially reasonable steps to prevent the problem. This will be a tough call. If Alii did not take commercially reasonable steps, then the Makes can recover all their damages, including the pain and suffering (non-economic damages) they're claiming. (Although, if Guy Make was unreasonable in failing to ask anyone about whether his pacemaker could have a Y2K problem, the recovery might be reduced by the degree of his responsibility.) If Alii did take commercially reasonable steps (which is like saying Alii was not negligent), then the Makes can recover only out-of-pocket costs (the funeral expenses?).

"Alii will probably bring in the pacemaker manufacturer, and the Makes may well sue the pacemaker-maker too. Assuming the pacemaker-maker qualifies as a software or hardware manufacturer, liability won't be determined by the Act. Alii and the Makes can base their claims on strict product liability (probably arguing that the pacemaker had a defective design). Perhaps they can all reach an early settlement through mediation.

"The Famous Traffic Light Case.

"Let's assume the 4-way green light so frequently mentioned does, in fact, happen due to a Y2K failure in a government computer, causing a car crash with car damage and soft tissue injuries to the drivers and passengers. Can they all sue each other? Yes, sure -- they're not the government or government employees, but the error was caused by a government computer, so their claims against each other won't be governed by either the public or the private sections of the Act. Can they sue the government? Yes, but they won't win unless the

government was grossly negligent -- in other words, the government screwed up, and badly, in its efforts (or lack of efforts) to find and fix the potential problem. Can they, and the government, sue the company that supplied the traffic-light timing software and the hardware it ran on? Yes, using whatever legal basis would apply under current law. Claims against hardware and software manufacturers and suppliers are excepted from the public section of the Act."

Senator Kanno then said:

"Mr. President, please note my reservations."

The Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1589 was adopted and H.B. No. 1111, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO YEAR 2000 ERRORS BY COMPUTER-BASED SYSTEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 7 (Anderson, Buen, Hanabusa, M. Ige, Nakata, Slom, Tam). Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1592 (H.B. No. 1636, H.D. 2, S.D. 1):

Senator Chumbley moved that Stand. Com. Rep. No. 1592 be adopted and H.B. No. 1636, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1592 was adopted and H.B. No. 1636, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1593 (H.B. No. 336, H.D. 1, S.D. 1):

Senator Levin moved that Stand. Com. Rep. No. 1593 be adopted and H.B. No. 336, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Iwase requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1593 was adopted and H.B. No. 336, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANT AND NON-DOMESTIC ANIMAL QUARANTINE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (M. Ige). Excused, 2 (Fukunaga, Matsuura).

Stand. Com. Rep. No. 1594 (H.B. No. 1183, H.D. 2, S.D. 2):

On motion by Senator Levin, seconded by Senator Buen and carried, Stand. Com. Rep. No. 1594 was adopted and H.B. No. 1183, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO BEACH LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Fukunaga, Matsuura).

H.B. No. 1037, S.D. 1:

On motion by Senator Levin, seconded by Senator Buen and carried, H.B. No. 1037, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE UNCLAIMED PROPERTY PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Fukunaga, Matsuura).

Stand. Com. Rep. No. 1596 (H.B. No. 1593, H.D. 1, S.D. 2):

Senator Tam moved that Stand. Com. Rep. No. 1596 be adopted and H.B. No. 1593, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Kawamoto rose to speak in favor of the measure as follows:

"Mr. President, I rise to speak in favor of this bill.

"Mr. President, this is my second flank coming from the north. This is our second attempt to tell our second story, but it addresses really a crucial thing. It addresses state residents, state contractors, provides project labor for state contracts. It adds what the Senator from Hilo wanted -- the State's prison -- in there. It adds like projects for the State prison and the University of Hawaii West Oahu campus.

"It also adds a preference bill, Mr. President, and I have been very much in favor of this. Right in my backyard in Waipahu, I have a \$3 million sidewalk project and it was outbid by a Mainland contractor who has 80 percent of the people working on that contract from the Mainland. Mr. President, these are the kinds of things we're trying to protect.

"The preference bill goes to \$8 million and below projects. Again, we're trying to tell the big boys that although they are state residents, please leave these projects for truly the state contractors in Hawaii.

"Thank you."

Senator Chumbley rose to oppose the measure as follows:

"Mr. President, I rise to speak in opposition to this measure.

"Mr. President and colleagues, this is my second attempt to tell the other side of the story and will do this from the south flank.

"Mr. President, since Boston Harbor, the most significant and successful legal challenges to union-only PLAs on public works have arisen under state competitive bidding laws. It is significant to note that in the only two states whose highest courts have examined public union-only requirements, both New Jersey and New York have held that under most circumstances, governmental union-only PLAs violate state competitive bidding laws.

"The New Jersey Supreme Court has acted twice to invalidate union-only PLAs. First, in George Harms Const. Co. v. New Jersey Turnpike Auth., the court struck down a PLA which mandated that all successful bidders sign agreements with a specified building trades union. The court held:

'The paramount policy of our public bidding laws fosters "unfettered competition" in public contracts; the effect of project-labor agreements is to lessen competition. . . . Our function is not to make the policy choice; our function is to assess whether the [government agency's] choice is consistent with the existing State public-bidding policy to foster competition.'

The court rejected the argument that the PLA permitted competition because bidding was 'open to all,' comparing the

situation to one in which the public entity arbitrarily imposed a bid requirement which favored a sole source provider.

"The New Jersey court reaffirmed and expanded its opinion in Tormee Construction, Inc. v. Mercer County Improvement Auth. There, the court observed:

'PLAs can violate the goals of competitive bidding. By mandating that workers belong to certain limited unions, PLAs restrict bidders to contractors with relationships with those unions. The obvious effect of such a restriction is to lessen competition.'

The court invalidated a PLA which would have required contractors to agree to sign union agreements (with any 'appropriate' union) as a condition of performing work on county courthouses.

"The only other state whose highest court has ruled on PLAs in the public sector is New York. There, the Court of Appeals issued a consolidated opinion reaching different results in deciding two PLA cases, in New York State Chapt. AGC v. New York State Thruway; and General Building Contractors v. Roswell Park Dormitory Authority. Properly construed, the New York court's joint holdings restrict PLAs to only the most extraordinary circumstances and prohibit PLAs in the most common public works settings.

"Finding that 'more than a rational basis must be shown' to support a PLA, the Court of Appeals held that a public agency operating under a competitive bidding law 'bears the burden of showing that the decision to enter into the PLA had as its purpose and likely effect the advancement of the interest embodied in the competitive bidding statutes.'

"Many cases have been filed around the country since these New Jersey and New York court decisions, but none has reached any definitive conclusion before the highest courts of any other state. The more persuasive judicial view thus remains that union-only PLAs are in derogation of fundamental policies underlying state competitive bidding laws, and they should not be sanctioned except in the most extraordinary circumstances.

"I have additional comments, Mr. President, that I'd like to have inserted into the Journal. But colleagues, again, this is just not a good public policy decision and I believe it takes us down the wrong path.

"Thank you."

The Chair having so ordered, Senator Chumbley's additional remarks read as follows:

"In response to the many legal and policy challenges to union-only PLAs, their advocates have presented a variety of rationales in support of such bidding restrictions. None of these justifications provides a valid basis for imposing union-only PLAs in the public sector.

"First, PLA advocates have contended that these agreements can reduce costs and increase efficiency when compared to union construction work which is conducted under a variety of different contracts and work rules. This argument applies only to situations where all or most of the performing contractors are in fact already unionized, as was frequently the case fifty years ago. There is no known study finding increased efficiency or lower costs when a union-only PLA is compared to a fully competitive, open, or mixed-use construction project. In addition, by forcing more efficient nonunion contractors to adopt wasteful and unfamiliar union work rules and practices, a union-only PLA deprives construction users of the demonstrated cost advantages of open-shop construction.

"Ironically, many union-only PLAs have been proposed in areas where the government projects are already subject to prevailing wage legislation, which are supposedly designed to

prevent nonunion contractors from undercutting their unionized competitors at the expense of employee salaries. Yet, even in these jurisdictions, open competition has been shown to result in cost savings, as compared to union-only requirements.

"Second, PLA supporters have claimed that PLAs are necessary in order to insure a steady supply of skilled or productive workers. This argument is impossible to support in a market where 80 percent of the industry is nonunion and where every type of large project, from industrial plants to stadiums, has been built on an open-shop basis over the last several decades. Similarly, OSHA workplace fatality statistics have shown, contrary to the claims of PLA supporters, that there is no safety advantage in union versus nonunion construction and that open-shop employees have suffered fewer fatalities.

"Finally, PLA advocates contend that union-only requirements are needed to maintain 'labor peace' and to avoid delays and disruption of construction timetables arising out of labor disputes. As one judge has correctly pointed out:

[A] determination to use a project labor agreement in order to avoid the costs associated with such activity smacks of acquiescence to extortion. It is no less opposite to the interests embodied in the competitive bidding statutes than would be the disqualification of an otherwise responsible bidder in order to lessen a threat of vandalism by an unsuccessful bidder."

Senator Chun rose in opposition to the measure and said:

"Mr. President, I stand in opposition to the bill.

"Mr. President, I voted in favor of the previous bill which included PLAs regarding federal contracts because I believe that in terms of getting an experiment done or a test case done, I think that might be a good place to start it. Mr. President, though, this bill goes beyond just a test case. This bill attempts to go into all state contracts.

"I agree with the problems. I agree that there are problems right now in our industry in regards to abuses by general contractors or employers which discriminate or which prevent our own workers over here from getting jobs. I don't disagree with that. I believe there are other ways, though, to take care of those problems. And I think without an adequate discussion as to what other methods we can use to take care of this problem, focusing on just one solution is not in the best interest of the people of this State.

"In fact, Mr. President, as I stated before, if the real problem stems from the lack of enforcement by our state government as far as the bidding requirements, as far as the GET, as far as doing work that are out of their classes, then why aren't we enforcing them? Why are we using a complicated methodology to try to solve a simple problem of getting our state workers to work better.

"I think if once we start going down that road, we start ignoring getting our own people to work better and start thinking of legislative fixes, which I think is one reason why our State is in the quandary we're in right now. We make things more and more complicated, as opposed to looking for the simple solution -- i.e., fix what is broken; do what is right; work the way we're supposed to work.

"So until we can have adequate discussions in terms of getting our employees to do the jobs that they're supposed to be doing, until we have those kinds of discussions, until we have explored all possible solutions which would be less costly and less divisive and less potentially unlawful, I think I cannot support this bill as it stands today, and ask my colleagues to vote against it.

"Thank you."

Senator Tam rose to speak in favor of the measure as follows:

"Mr. President, I speak in favor of this bill.

"Our message in regard to this bill is that this bill allows the State of Hawaii, through the procurement officer, in the construction of state facilities to use guidelines of safety and health, and fair pay and skilled workers. Also, to draw your attention, members and colleagues, that in the establishment of parameters for these guidelines that I mentioned, Chapter 91 will be used by the administration.

"Thank you."

Senator Taniguchi then stated:

"Mr. President, would you note my reservations to this measure."

The Chair so ordered.

Senators D. Ige and Chun Oakland then requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1596 was adopted and H.B. No. 1593, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 14. Noes, 9 (Anderson, Buen, Chumbley, Chun, Inouye, Matsunaga, Sakamoto, Slom, Tanaka). Excused, 2 (Fukunaga, Matsuura).

Stand. Com. Rep. No. 1597 (H.B. No. 159, H.D. 2, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1597 be adopted and H.B. No. 159, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senators Slom and Sakamoto requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1597 was adopted and H.B. No. 159, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WHISTLEBLOWER PROTECTION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1599 (H.B. No. 167, H.D. 3, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1599 be adopted and H.B. No. 167, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Levin rose in support of the bill with reservations:

"Mr. President, I rise to speak in favor of this bill with reservations.

"If I read this bill correctly, it would provide that no one under the age of 18 would be able to apply for a driver's license unless they have taken a driver education course including 10 hours of behind-the-wheel training and 30 hours of classroom training. I think that is going to create a tremendous hardship, particularly in those geographic areas where schools do not offer driver training. And I think that is a fairly common situation throughout our State.

"For those geographic areas, particularly where there is not adequate public transportation, individuals under the age of 18 really do need to be able to drive to get to work, to get to school, and to live a full life. So I would urge that as this bill works its way through conference, those who are conferees please give some consideration to those individuals and perhaps come up with other approaches.

"Thank you."

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Sakamoto rose to speak in favor of the measure with reservations:

"Mr. President, I'd like to speak in favor with reservations. I know the hour is getting late, but just a little information.

"Similar to the Senator from Ka'u, I'm concerned about the education requirement -- 10 hours behind the wheel, 30 hours of classroom training. Already the Department of Education is faced with a financial crunch, therefore either these services won't be provided or we'll be asked, here, for additional funds for the thousands of applicants.

"So, what can we say? Do we say let's raise the fee in the Department of Education to cover the cost, which might be \$200; or do we say go seek private providers which might be even more. So there's about 10,000 people, young people, each year trying to get their driver's licenses. So really, we need to look at another way to enforce safety in that regard.

"Thank you."

Senator Iwase requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Kawamoto rose in support of the bill and said:

"Mr. President, I'd like to speak in favor of this bill.

"Mr. President, for, I think, three years we tried to pass through similar bills and I guess thanks to the young people from Maui who came to visit the good Senator from Maui, they were able to convince him to pass out a bill that is similar to the bill that they wanted. But it was young people asking the Senate to save young people's lives. And that, you cannot turn down. It's important to see our young people come out and, again, testify in favor of trying to save young people's lives.

"Therefore Mr. President, I urge all my colleagues to vote 'aye' on this bill. Thank you."

Senator Tam then requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1599 was adopted and H.B. No. 167, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Matsuura, Taniguchi).

Stand. Com. Rep. No. 1600 (H.B. No. 171, H.D. 2, S.D. 2):

Senator Chumbley moved that Stand. Com. Rep. No. 1600 be adopted and H.B. No. 171, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Matsunaga.

Senator Sakamoto spoke in favor of the measure with reservations:

"Mr. President, I rise in support with reservations.

"The Judiciary co-chairs have greatly improved the bill, but I still have some concerns about placing a burden on the surrogate. When do you decide to withhold food and water if it's your mother or your mother lying there? What if you have pulled the plug and then medical experts discover a cure to the disease or condition that has incapacitated your loved one? So I have concerns, Mr. President."

Senator Slom requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1600 was adopted and H.B. No. 171, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE DECISIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Matsuura, Taniguchi).

H.B. No. 86, S.D. 1:

On motion by Senator Fukunaga, seconded by Senator Levin and carried, H.B. No. 86, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Matsuura, Taniguchi).

Stand. Com. Rep. No. 1602 (H.B. No. 140, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1602 be adopted and H.B. No. 140, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Kawamoto spoke on the measure as follows:

"Mr. President, this is my third and last flank.

"This is the most important bill. This bill came to us from the House and in one paragraph it tries to circumvent 104D, and this is the Little Davis-Bacon Act. And I understand that opponents of project labor have used this throughout the country to again circumvent the Little Davis-Bacon Act. And if many of you don't know (maybe you're too young) but the Little Davis-Bacon Act comes from the 1946 sugar strike and efforts that were made there. People died in their efforts to get this Little Davis-Bacon Act. And we cannot afford to allow people circumventing 104D.

"Thank you."

Senator Chumbley rose to speak against the measure and said:

"Mr. President, I rise to speak in opposition to this measure, and I hope this is the last time I have to rise also.

"Mr. President, I want to share with you and some of our colleagues the problems with PLAs. I can't speak to the contents of this measure before it was amended as to that merit, but just to the bills that came out and are before us now.

"Public construction work has long been awarded on the basis of competitive bidding and to the lowest responsible bidder. At all levels of government, it has been rightly perceived that favoritism in the award of government contracts is a form of corruption which leads inevitably to higher costs and lower performance. At the same time, the majority of construction users have recognized that the labor affiliation of a bidding contractor bears no relationship to the ability of the contractor to perform construction work.

"In order to sign PLAs, open-shop contractors are forced radically to alter their normal structure of operations and work rules, which are normally more flexible and less rigid than under union agreements. Particularly where 80 percent of the construction industry performs work on a nonunion basis, union-only PLAs inherently discourage many contractors from bidding for work under such circumstances.

"Recent studies have shown that public sector PLAs significantly reduce the number of bidders for government work and significantly increase the costs of construction. One such study in Roswell Park, New York, conducted both before and after a PLA was temporarily imposed in 1995, revealed that there were 30 percent fewer bidders to perform the work under the PLA and that costs increased by more than 26 percent. Similarly, a GAO study of a Department of Energy PLA in Idaho found that labor costs on the project were more than 20 percent higher than the prevailing wage in the area.

"In a pending case in Nevada, a water authority rejected a responsive bid which was more than \$200,000 lower than all others, solely because the contractor could not and would not sign a union contract. Similar testimony of inflated costs of PLAs at both the Tappan Zee Bridge in New York and the Central Artery Tunnel in Boston is contained in the record of U.S. Senate Hearings held on the subject in 1997.

"Supporters of PLAs have asserted that nonunion contractors have in fact bid upon selected work performed under union-only PLAs, and that only a matter of 'choice' prevents other open-shop contractors from competing for PLA work. The true question, however, is not whether open-shop contractors are completely precluded from bidding on union-only contracts, but whether imposition of the union-only requirement discourages bidders from coming forward, to the detriment of taxpayers.

"Clearly, imposition of a union-only PLA has the inherent effect of deterring a large number of contractors from submitting bids, and not merely as a matter of philosophical 'choice.' Rather, in order to bid on union-only work, nonunion contractors must submit to radical restructuring of their operations -- from hiring to work rules to fringe-benefit plans -- jeopardizing many of the very characteristics which have made them successful and cost efficient in the first place.

"PLAs likewise discriminate against the employees of open-shop contractors by imposing on them, by government edict, an unwanted union representative. Regardless of whether the employees are required to pay dues to the union under a PLA, a frequent requirement, they are necessarily bound by whatever agreement the union negotiates as to their wages, hours, and working conditions, regardless of their personal choice. It is little consolation to such employees that their unwanted union status is limited to a particular project -- indeed, this fact often results in depriving the employees of any opportunity to vest in any meaningful benefits from the union health, welfare, and pension fund contributions which must be made by their employers to union trust funds under most PLAs.

"Even many union contractors, who might be expected to benefit from union-only PLAs, in reality are disadvantaged by them. According to Associated General Contractors, an association representing many union contractors, public sector PLAs unfairly remove contractors from the collective bargaining process and give unwarranted leverage to union officials who deal directly and advantageously with government procurement managers.

"In each of these instances, it is the taxpayers who suffer most directly from governmentally imposed union-only PLAs. Unlike private sector agreements, in which corporate directors and shareholders can evaluate the risks and rewards of labor agreements in direct relation to market forces, there are no similar restraints on government officials exercising control over public construction dollars. Union-only PLAs threaten to undermine the public trust in the competitive bidding process.

"Mr. President, in conclusion, imposition of union only PLAs in the public sector cannot be shown to serve the public interest. The government should not enter into the realm of labor management relations by arbitrarily creating a protected enclave for union work at the expense of the taxpayers and to the detriment of fair and open competition. Government agencies that impose union-only PLAs, in response to short term political pressure from labor organizations, will suffer long term consequences in the form of litigation, increased cost of construction, and adverse taxpayer reaction.

"Mr. President, like the other two votes, I will be voting 'no' on this measure and encourage all my colleagues to do the same.

"Thank you."

Senator Kawamoto rose to respond and said:

"Just a slight rebuttal, Mr. President.

"Mr. President, I know the day is long and we've been here a long time, but I just couldn't sit there and take all the accusations given by my colleague from Maui. All these accusations, again, were presented in court, presented everywhere else. They are opinions by the ABC. The ABC tried to resolve this problem. They went to the Supreme Court and the Supreme Court voted 9 to 0 in favor of project labor. Therefore, Mr. President, these accusations are false."

Senator Chumbley then said:

"Mr. President, a short rebuttal.

"Mr. President and colleagues, my statements are not those of ABC and I resent that. And the Supreme Court in a 9 to 0 ruling upheld the Boston Harbor agreement in a very narrowly defined area. So, Mr. President, I'm not speaking in behalf of any organization, nor am I speaking in behalf of ABC. I'm speaking in behalf of the taxpayers.

"Thank you."

Senator Chun rose to speak against the measure and stated:

"Mr. President, I stand in opposition to the bill.

"I think the comment on ABC was for Avery 'Buttons' Chumbley.

"I stand in opposition to this bill for the same reasons that I stated in H.B. No. 1593 and ask that the record would so reflect.

"Thank you."

Senator Taniguchi requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Slom rose to oppose the measure as follows:

"Mr. President, I stand in opposition to the bill.

"Is this the end of the trilogy for today? This is it? Okay. It's only five of five.

"For the reasons that I expressed before, but also the supporter of the bill from God's country started off talking about Davis-Bacon, and this bill is not about Davis-Bacon. It is about project labor agreements.

"The description in the Order of the Day says 'Relating to Public-Private Infrastructure Partnerships.' It's not about partnerships. It's about lack of choice and about forcing people to do things that they may choose not to do. Also, we have a

provision in here for the definition of state contractor and state subcontractor requiring that 100 percent of all employees, if that contractor or subcontractor has one or more, must be Hawaii residents, which is not a reasonable requirement.

"The Davis-Bacon Act, by the way, is the law of the land. It is required. It is pursued aggressively. But I think the bottom line in all of this is, this bill is so convoluted with so many things thrown into it with the idea just being to get PLA passed, that it's not going to do anything to either improve our economy; it's not going to do anything to provide opportunities for local employees; it's not going to provide more construction opportunities. That will be dependent on our economic conditions which we have not addressed here today.

"Thank you, Mr. President."

Senator D. Ige then rose and said:

"I'd just like to note my 'support, with reservations.'"

Senator Chun Oakland requested her vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1602 was adopted and H.B. No. 140, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC-PRIVATE INFRASTRUCTURE PARTNERSHIPS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 9 (Anderson, Buen, Chumbley, Chun, Inouye, Matsunaga, Sakamoto, Slom, Tanaka). Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1603 (H.B. No. 985, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1603 be adopted and H.B. No. 985, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Sakamoto rose on a point of personal privilege and said:

"Mr. President, I rise on a point of personal privilege.

"Regarding the bill before us deals with procurement, I want to just clarify. It's important to me that my fellow Senators can rely on the accuracy of information or testimony I present. So to this end, I felt it necessary to confirm that we confirmed with DAGS the position that I presented as part of my floor speech on H.B. No. 122 that was questioned by the Senator from Nuuanu.

"So, per a telephone conversation with the Comptroller this afternoon, they did in fact verify that DAGS is opposed to H.B. No. 122, S.D. 1, Relating to Prompt Payment, and they also confirmed that the Public Works Administrator and his assistant conveyed this position in a meeting with the GOH chair and his staff at which I was present. Further, they confirmed that they have not communicated any change of that position.

"So for the record, it is important for the construction industry and my staff has been contacting DAGS almost every other day for the past month. And they confirmed that they are opposed to both the prompt payment and the retention bills, Mr. President. They have not changed that position.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1603 was adopted and H.B. No. 985, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Anderson, Slom). Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1604 (H.B. No. 1276, H.D. 1, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1604 be adopted and H.B. No. 1276, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Anderson requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1604 was adopted and H.B. No. 1276, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1605 (H.B. No. 1711, H.D. 2, S.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1605 was adopted and H.B. No. 1711, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KANEHOHE BAY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1606 (H.B. No. 1664, H.D. 3, S.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 1606 be adopted and H.B. No. 1664, H.D. 3, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Iwase then rose and said:

"Mr. President, 'W/R,' one-subject rule. Thank you."

The Chair so ordered.

Senators Slom and Anderson requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1606 was adopted and H.B. No. 1664, H.D. 3, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

Stand. Com. Rep. No. 1607 (H.B. No. 747, H.D. 1, S.D. 2):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 1607 was adopted and H.B. No. 747, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

H.B. No. 100, H.D. 1, S.D. 1:

Senator Fukunaga moved that H.B. No. 100, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Fukunaga rose to speak in favor of the measure and said:

"Mr. President, I rise to speak in brief support of this measure. I know it's been a long day, colleagues.

"The Senate Ways and Means Committee heard the call of Hawaii's voters over the past several months. And in response to many of our colleagues' questions, our answer is that: State government's role in economic recovery and improving the efficiency of state government services must change now.

"What we have tried to do in this version of the Senate budget is three things: First, we have tried to create greater accountability in government and focus on delivering core services to the general public in a more cost-effective manner. In so doing, we have complied with the Felix Consent Decree by making it the Senate's top priority so that we can ensure that we meet our June 30, 2000 deadline. To that end, I would note that all of the Executive Request funding items associated with Felix-compliance have been included in this version of the budget. We have also answered the call for greater accountability by providing that all Felix-related services shall be funded out of the Governor's Office (GOV 200) and to provide schools and school complexes with greater say in determining the services that are to be provided to the students that they serve.

"Secondly, we have tried to be vigilant stewards of taxpayer dollars. And in so doing, we have vigorously controlled government spending, partly by reducing approximately 40 percent of all vacant positions in state government.

"Thirdly, we have tried to focus on what needs to be done for people. We have concentrated on core functions and essential programs and services dealing with health, safety, education, economic development or those services mandated at state levels.

"We are also proud to say that while we have addressed all these core priority areas, we are spending no more than \$3 million in FY 2000 than we are currently spending in this fiscal year. As we focus on what is perhaps the most important part of the Senate's economic plan, I'd like to defer to Co-Chair Levin to talk about some of the things which we have done in the area of economic recovery."

Senator Levin also rose to speak in support of the measure as follows:

"Mr. President, we have come to the belief that in order to stimulate our economy and spur an economic rebound, we have got to reduce taxes. We have listened to the business community. We recognize that it is the business community, not government, which is the key player to turn the economy around.

"We do recognize that it's the government's role to provide business with a better business climate and with the tools to facilitate success. So to restore a vibrant economy, we provide significant tax relief for taxpayers, and we build it into our financial plan, and we keep our budget tight so that we can afford the tax reductions.

"Last year, the Legislature passed the largest personal income tax reduction in the State's history. It should come out to approximately \$752 million in tax reductions over the next four years. That's an extra three-quarters of a billion dollars in spending power given back to our people.

"Mr. President, you said on opening day that we needed to rally and respond to help small business. That is precisely what we are trying to do this year again, with a number of tax incentives. Our Minority Floor Leader has said that we have not passed anything, and our Minority Floor Leader is an honorable man. But I think it is important to recognize that we have proposed, and we have just passed on this floor, a reduction in general excise tax pyramiding. Over the next five to seven years, when fully implemented, that alone would result in a \$150 million tax reduction per year.

"This year we have also proposed tax incentives and resources for venture capital investment for a call center industry and improvements to hotel and resort properties. We've also put in tax breaks for the counties and for levelling the import/export playing field so that our local people can export competitively and products that are coming in will be taxed more fairly. These are the tax incentives that we believe are needed, and in many cases they will be implemented immediately, which means an immediate break for businesses and an immediate boost to our economy.

"We hope that with this package and the budget itself, we will move our economy in the right direction.

"Thank you. I'd like to turn the microphone back to my co-chair."

Senator Fukunaga continued in support of the measure as follows:

"Certainly, Mr. President, we recognize that crafting a document as massive as the state budget is not one that could be done without a lot of support. So first, we'd like to turn to all of you, our colleagues -- and our subject matter chairs and Ways and Means Committee members -- and say thank you for your input, your guidance and recommendations as we have crafted this document, as well as many of the subsidiary 'moving parts' of the process. We would also like to thank our Senate Ways and Means staff who are currently arrayed in the gallery above us.

"This massive set of documents could not have been undertaken or produced on time, on budget, without their assistance and we'd like to ask them all to rise to be recognized. Chief clerk, Barbara Stanton; budget supervisor, Debbie Nakagawa; bill research team head, Garret Kashimoto, and all of their respective staff, please rise and accept our thanks. (The staff members seated in the gallery rose to be recognized.)

"Secondly, we would also like to thank and acknowledge many of the people from the legislative agencies, Legislative Reference Bureau, our Senate Majority research staff, as well as your office, Mr. President, in helping us craft this document.

"We believe it puts us in good position to go into conference and we believe that the Senate will have a product that it can truly be proud of.

"Thank you."

Senator Sakamoto rose to speak in support of the measure as follows:

"Mr. President, I rise in support, and I also appreciate the chairs' efforts in passing the tax measures which certainly would help.

"As you are aware, Radford High School was in the news a lot and I appreciate you putting in the Radford project and hopefully that prevails.

"I guess, for me, our staff was trying to compare the numbers between the House and the Senate and glad to see a lot of numbers are reductions. So hopefully, we can prevail in making our government more efficient, as well.

"Thank you, Mr. President."

Senator Levin rose and said:

"Mr. President, if I may be allowed one more word of thanks, both to our committee members and to staff.

"As a first year co-chair of Ways and Means, I had always understood what the job entailed toward the end of session, when people would come with sleeping bags and devote

endless hours to the job at hand. Now, as co-chair, I realize that the sleeping bag part starts from day one, perhaps even before session starts. The group that is in the gallery is comprised of the most extraordinary people in terms of the dedication and hours that they have put in, and I couldn't be more grateful to them, as well as to my co-chair who also puts in endless hours and keeps me in tow. I thank them all. The staff is just remarkable and deserves everybody's thanks.

"Thank you."

Senator Inouye rose to speak in favor of the measure as follows:

"Mr. President, I speak in support of the bill and I'd like to thank the Ways and Means and all my colleagues for their support.

"This is a great economic package and I believe first time for the counties and I'd like to say on behalf of the counties, thank you very much for assisting them. And I think as I can reflect back to my role as a former mayor who had pleaded with this Legislature for a number of years and those who had preceded me in that role and those until today came to this Legislature to ask for support on behalf of the counties, thank you very much."

Senator Slom rose in support of the bill with reservations:

"Mr. President, I rise to support the measure with reservations.

"First of all, let me thank my colleague, the good Senator from Ka'u, for establishing that I am, in fact, an honorable man. I appreciate that.

"It's a massive undertaking for the budget -- no question about it. There was a lot of work put in, a lot of sacrifice and so forth -- a lot of good items. And unlike the erroneous reports from the media, the Senate budget is not higher but in fact is lower than both the Governor's recommendations and the House recommendations. So I think that's a good point.

"However, I think that as always we should strive to do better and that should be the goal in the conference committee. There are a number of changes between the House and Senate versions and it's going to take very acute, I guess, negotiating, and we hope that our team will have the best talents possible.

"Also, I note that a number of the measures within the budget actually call for facilitating and advancing the idea of restructuring various departments because of the funding mechanism in which it was given.

"The only final comment that I would make is that in terms of economic development, in terms of tax relief. While it is laudatory that this is in the budget and we're going to pass this today, that's fine, then we go into conference committee. First of all, I will stand by my statement earlier that had we really been serious about jump-starting the economy and solving some of the problems that have existed for nine years now and listening to the people that have had to reach in their own pockets to create the jobs and create the income, we would have done this very early. Instead, we pass bills that pay for our expenses and we pass other bills that have interest to a narrow majority within our community. This is the most important thing that we have to do.

"In terms of some of the specifics within the budget itself, as the good Senator from Ka'u mentioned, the tax relief is spread out over 5 to 7 years. My only concern, Mr. President, is that this does not give a signal of immediacy or urgency, not like all the emergency appropriations that we pass every time we vote on things. The emergency is for those businesses and those householders and those single moms who will not be here in five to seven years because they will not be able to afford it. In

the meantime, what we've done today and what we'll do now is pass a really good budget document for discussion, but we also passed an increase in taxation and new taxes allowable for the Department of Education.

"So I think the bottom line message is going to be, when people look at what we've done today and what we've done in this session -- unless we make some very dramatic changes in conference -- is that we did not do what we came to do and we said we would do, and that is to alleviate the high cost of taxation and the high cost of living and the burden that faces every individual in this community. And that's should have been job number one. We should have done that immediately on a bi-partisan basis.

"So I will support this budget with reservations and I hope, as I say, that we will get more concessions as go in the conference process.

"Thank you."

Senator Anderson rose to support the measure with reservations:

"I, too, will be voting with reservations, and I would like to thank the staff from Ways and Means. They worked very, very hard and they were very helpful and so were the two co-chairs.

"However, I, too, echo the five to seven years incentive is not immediate. We could have passed the GET 4 percent off of food and drugs, which would have been immediate for our people -- the most regressive tax -- but we didn't.

"Also, because we don't have the staff that some do, but our Minority research did some work on this and they have down here that on the Felix-Cayetano we have it two areas, consequently I'm not sure if it's budgeted twice, but I believe that's why it seems that in the first year we're 8.1 percent over and 8.6 in the second year. That's something we can look at.

"Also, I'm not sure if we did right because we didn't even do anything with the prisons. We grumble a lot. We still haven't made decisions because we're not decision makers, evidently. But what we should have done is make that decision. We did tell the people of Ka'u when the two Judiciary chairmen and myself were up there with a few others. And I was told that, I guess, Pele would be upset with us because it was a spiritual place. And it was a group of people who weren't even Hawaiian at the time they told me that. And I told them, you know in our day, culturally, you brought prisons because that's part of your culture. In our day, we didn't have prisons. We had the kapu system and if you violated the kapu system, you better haul down to the City of Refuge, otherwise 'pau kahana' for you. So they brought their culture and that's why we have prisons. But unfortunately, we're not building them. We're making mandates on public safety and other things that the people need, but we're not making decisions to build that because it's on a particular part of an island that somebody doesn't want. And as soon as I said they could build it in, as far as I was concerned, Kawainui and let me fight it, immediately one of my Senators stood up and said, 'My people would be opposed to that. We can't have it over there.' That was just a gesture. This is what we don't do. We don't do the kinds of things that should be in the budget. We should pass it, but we don't.

"So those are some of my reservations that I have, Mr. President. And I once told my friend, if you have lots of reservations for 15 minutes, you should vote 'no.' So I'm going to quit as this point.

"Thank you very much."

Senator M. Ige requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 100, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Matsuura).

MATTER DEFERRED FROM EARLIER ON THE CALENDAR

THIRD READING

Stand. Com. Rep. No. 1481 (H.B. No. 806, H.D. 2, S.D. 2):

Senator Fukunaga moved that Stand. Com. Rep. No. 1481 be adopted and H.B. No. 806, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Iwase requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1481 was adopted and H.B. No. 806, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Anderson, M. Ige, Inouye, Matsunaga, Slom). Excused, 1 (Matsuura).

Senator Levin, for the Committee on Ways and Means, requested a waiver pursuant to Senate Rule 20 for the following resolutions:

- S.C.R. No. 18;
- S.C.R. No. 26;
- S.C.R. No. 27;
- S.C.R. No. 28;
- S.C.R. No. 30;
- S.C.R. No. 37;
- S.C.R. No. 38;
- S.C.R. No. 39;
- S.C.R. No. 50;
- S.C.R. No. 55;
- S.C.R. No. 57;
- S.C.R. No. 64;
- S.C.R. No. 65;
- S.C.R. No. 77;
- S.C.R. No. 86;
- S.C.R. No. 93;
- S.C.R. No. 97;
- S.C.R. No. 103;
- S.C.R. No. 105;
- S.C.R. No. 109;
- S.C.R. No. 115;
- S.C.R. No. 116;
- S.C.R. No. 117;
- S.C.R. No. 119;
- S.C.R. No. 121;
- S.C.R. No. 127;
- S.C.R. No. 129;
- S.C.R. No. 131;
- S.C.R. No. 139;
- S.C.R. No. 141;
- S.C.R. No. 144;
- S.C.R. No. 145;
- S.C.R. No. 147;
- S.C.R. No. 148;
- S.C.R. No. 149;
- S.C.R. No. 151;
- S.C.R. No. 157;
- S.C.R. No. 158;
- S.C.R. No. 172;
- S.C.R. No. 178;
- S.C.R. No. 179;

S.C.R. No. 188;
S.C.R. No. 194;
S.C.R. No. 195;
S.C.R. No. 199;
S.C.R. No. 203;
S.C.R. No. 219;
S.R. No. 9;
S.R. No. 15;
S.R. No. 16;
S.R. No. 17;
S.R. No. 29;
S.R. No. 40;
S.R. No. 43;
S.R. No. 45;
S.R. No. 53;
S.R. No. 54;
S.R. No. 55;
S.R. No. 59;
S.R. No. 62;
S.R. No. 81;
S.R. No. 85;
S.R. No. 90; and
S.R. No. 94,

and the Chair granted the waiver.

At this time, Senator Chun Oakland, on behalf of the Senate, extended happy birthday wishes to Senator Slom.

ADJOURNMENT

At 5:20 o'clock p.m., on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, April 15, 1999.