

FIFTEENTH DAY

Thursday, February 7, 2008

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, convened at 12:06 o'clock p.m., with Vice Speaker Chong presiding.

The invocation was delivered by Ms. Leolani Oyama of Representative John Mizuno's office, after which the Roll was called showing all members present with the exception of Representative Takai, who was excused.

On motion by Representative B. Oshiro, seconded by Representative Meyer and carried, reading of the Journals was dispensed with and the Journals of the First, Second, Third, Fourth, Fifth, Sixth and Seventh Days were approved. (Representative Takai was excused.)

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 252) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 252, dated February 1, 2008, transmitting the Report on the Congresswoman Patsy T. Mink Commission for the period of December 16, 2006 through December 15, 2007.

SENATE COMMUNICATION

The following communication from the Senate (Sen. Com. No. 6) was received and announced by the Clerk:

Sen. Com. No. 6, returning H.C.R. No. 61, entitled: "HOUSE CONCURRENT RESOLUTION AWARDED THE HAWAII MEDAL OF HONOR TO UNITED STATES MILITARY SERVICE MEMBERS WITH HAWAII CONNECTIONS KILLED IN ACTION WHILE SERVING IN DANGEROUS, VOLATILE, AND UNSTABLE AREAS OF THE WORLD, INCLUDING IRAQ AND AFGHANISTAN," which was adopted by the Senate on February 6, 2008.

DEPARTMENTAL COMMUNICATION

The following departmental communication (Dept. Com. No. 53) was received by the Clerk and was placed on file:

Dept. Com. No. 53, dated January 31, 2008, from David McClain, President, the University of Hawai'i System, transmitting the Annual Report on the University of Hawai'i's Continued Participation in the Western Interstate Commission of Higher Education.

INTRODUCTION

The following introduction was made to the members of the House:

Representative Evans introduced Mr. Rick Masters and Mr. Keith Scott with the Council on State Governments' National Center for Interstate Compacts, in Lexington, Kentucky.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

The following bills were re-referred to committee by the Speaker:

H.B.Nos. Re-referred to:

509, HD1	Committee on Transportation, then to the Committee on Consumer Protection & Commerce
1062, HD1	Committee on Public Safety & Military Affairs, then to the Committee on Finance
2451	Committee on Agriculture, then to the Committee on Finance
2452	Committee on Agriculture, then to the Committee on Finance
2811	Committee on Energy & Environmental Protection, then to the Committee on Finance
3034	Committee on Agriculture, then to the Committee on Finance

STANDING COMMITTEE REPORTS

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 202-08) recommending that H.B. No. 96, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Transportation.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 96, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Transportation with Representatives Sonson, Takai and Takumi being excused.

At 12:13 o'clock p.m., Representative Meyer requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:14 o'clock p.m.

Representatives Green and Shimabukuro, for the Committee on Health and the Committee on Human Services & Housing presented a report (Stand. Com. Rep. No. 203-08) recommending that H.B. No. 2520, as amended in HD 1, pass Second Reading and be referred to the Committee on Labor & Public Employment.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committees was adopted and H.B. No. 2520, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVERS," passed Second Reading and was referred to the Committee on Labor & Public Employment with Representatives Sonson, Takai and Takumi being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 204-08) recommending that H.B. No. 2972, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2972, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance with Representatives Sonson, Takai and Takumi being excused.

Representatives Takumi, Chang and Sonson, for the Committee on Education and the Committee on Higher Education and the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 205-08) recommending that H.B. No. 2959,

as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committees was adopted and H.B. No. 2959, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT," passed Second Reading and was referred to the Committee on Judiciary with Representatives Sonson, Takai and Takumi being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 206-08) recommending that H.B. No. 2952, pass Second Reading and be referred to the Committee on Economic Development & Business Concerns.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2952, pass Second Reading and be referred to the Committee on Economic Development & Business Concerns, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. Mr. Speaker, I would like to have the Clerk cast a vote with strong reservations vote for me on Standing Committee Report No. 206-08. This is relating to transportation and airports.

"Mr. Speaker, what it's going to do is establish the Car Rental Consumer Facility Charge Special Fund and all proceeds from the car rental customer facility charge will be deposited into that. That's going to mean that our local folks and our visitors are going to have another charge tacked onto to their rental bill because of this facility charge.

"The industry was very split on this. This was not something that was supported broadly by all the members of the industry. Enterprise for example, had very strong concerns. There were other concerns that the rental car money would collect and be diverted to projects not related to the facility for which it was charged. In other words, people in Maui might be paying into this and yet the money might go for something to be improved over on Oahu.

"I think we keep hitting the rental car people; the people that rent those cars. We keep hitting them with ad ons, ad ons, ad ons and I don't believe this is a good way to go. Everything else is costing more. We don't want our local folks to have to pay more when they go to the Neighbor Island, and we don't want to price visitors out of our location. Thank you."

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

"Thank you, Mr. Speaker. I'm also rising with some strong reservations on this measure. In Committee, the Department of Transportation had some problems with the bill because it doesn't identify a specific location. I think some of the other rental cars on the Neighbor Islands felt they would have to charge their customers this customer facility charge for a facility that they would not enjoy. It would be built on Oahu. There's just a lot of *pukas* in this bill; a lot of questions. Thank you."

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

"Mr. Speaker, I also rise with strong reservations. I had the opportunity to be with the Governor in Japan when we got 'taken to the woodshed' about the Japanese visitor being taken for granted. They pointed to the less expensive, very elaborate resorts in various parts of the world. I'm afraid this is going to play right into their hands from the international visitor point of view.

"From the local car rental, it's going to bump up the cost of living. Do we need to increase the cost of living? In the last five years, water and sewer fees have gone up 41 percent. Gasoline has gone up 87 percent. Electricity: 85 percent. Property taxes: 108 percent. Do we really need to put the cost of cars on top of all that? I don't think so. I mean, maybe we need something like this, but the timing of it is incorrect and the way that it's being approached is divisive. Thank you, Mr. Chair."

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

"Thank you, Mr. Speaker. In strong support. In Committee, and the previous speaker was correct, the industry was split on this. But what they did universally agree on is that we do need a centralized facility. How we get there, there were some differences of opinion.

"This bill is not perfect, but it will continue the discussion. We did need a centralized facility to keep up with other tourist destinations, such as Orlando and Los Angeles. So I support this strongly and I urge my colleagues to do the same. Thank you."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2952, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Economic Development & Business Concerns with Representatives Sonson, Takai and Takumi being excused.

Representatives Souki and Ito, for the Committee on Transportation and the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 207-08) recommending that H.B. No. 3415, pass Second Reading and be referred to the Committee on Judiciary.

Representative Caldwell moved that the report of the Committees be adopted, and that H.B. No. 3415, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative B. Oshiro.

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

"Yes, in strong support for 207-08. This is really addressing an ongoing thing that's been going on for as long as I can remember, probably longer hopefully.

"We have all these rights of ways. If you look at an old map of Maui, there are roads that crisscross that map, the '57 map, that were public roads that allowed folks to get from Kihei to Upcountry in a straight shot that exist right now. They're still there. There's one that goes by Paia called Sunnyside Road. That's another one of these old government roads that could be used to alleviate congestion, as well as provide for corridors for greenways, in-transient corridors, but it's always been left for the Attorney General to determine each one individually and it's a very long and contentious process.

"What this would really do is ease this and make it to the Consumer Affairs Committee, to make it standardized and a very simple type of procedure, to determine who owns the road. We'd be able to connect right now, Makena to Upcountry in this little road that exists and has existed for years, but just nobody has been able to figure out whose it is. So it's high time that we make this an easy and fast thing for the betterment of our communities. Thank you."

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

"In support, and may I have the words of the speaker of Kihei entered into the Journal as if they were my own? And just to add a couple quick comments. It takes 15 to 20 years to build any new roads. If we're going to aggressively address traffic mitigation we have to look at these old government roads. This process has been going on, and on, and on forever and we need to identify so we can have repaired and upgraded these roads, be it the county or the State.

"There's also another hidden piece of the equation and that is that many places where people have homes, where they can buy homes, are only serviced by these roads. But because of their jurisdictional disputes, these roads have not been repaired at all and they have become literally, pothole messes that greatly impact people. The repair bills and damage bills to cars are inordinate. The frustration is just overflowing. They want to see something done now and I think this is a good approach. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 3415, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ROADS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Sonson, Takai and Takumi being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 208-08) recommending that H.B. No. 2256, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2256, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Sonson, Takai and Takumi being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 209-08) recommending that H.B. No. 2330, as amended in HD 1, pass Second Reading and be referred to the Committee on Transportation.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2330, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Second Reading and was referred to the Committee on Transportation with Representatives Sonson, Takai and Takumi being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 210-08) recommending that H.B. No. 2699, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2699, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Sonson, Takai and Takumi being excused.

Representative Ito, for the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 211-08) recommending that H.B. No. 3060, as amended in HD 1, pass Second Reading and be referred to the Committee on Human Services & Housing.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3060, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE RESALE OF RESERVED HOUSING UNITS BY THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Second Reading and was referred to the Committee on Human Services & Housing with Representatives Sonson, Takai and Takumi being excused.

Representative Ito, for the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 212-08) recommending that H.B. No. 2890, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Economic Development & Business Concerns and the Committee on Labor & Public Employment.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2890, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARCHAEOLOGISTS," passed Second Reading and was referred jointly to the Committee on Economic Development & Business Concerns and the Committee on Labor & Public Employment with Representatives Sonson, Takai and Takumi being excused.

Representative Ito, for the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 213-08) recommending that H.B. No. 3421, as amended in HD 1, pass Second Reading and be referred to the Committee on Economic Development & Business Concerns.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3421, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was referred to the Committee on Economic Development & Business Concerns with Representatives Sonson, Takai and Takumi being excused.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 214-08) recommending that H.B. No. 3387, as amended in HD 1, pass Second Reading and be referred to the Committee on Public Safety & Military Affairs.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3387, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS," passed Second Reading and was referred to the Committee on Public Safety & Military Affairs with Representatives Sonson, Takai and Takumi being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 215-08) recommending that H.B. No. 2028, as amended in HD 1, pass Second Reading and be referred to the Committee on Education.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2028, HD 1, pass Second Reading and be referred to the Committee on Education, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. For Stand. Com. No. 215, I am in support. Protecting our children from online predators needs to be one of our top priorities. Today predators use the Internet to befriend, seduce and ultimately harm our children. This measure will enhance the Attorney General's Hawaii Intimate Crime Against Children's Unit with expansive services to proactively combat the cyber crimes by progressively educating our children, adults and teachers.

"This cyber safety initiative will provide customized educational presentations for K to 8th grade and offer community seminars. If we can educate our children, teachers, parents and caregivers through our cyber safety initiative, we will definitely avoid many online dangers for our *keiki*. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2028, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERNET," passed Second Reading and was referred to the Committee on Education with Representatives Sonson, Takai and Takumi being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 216-08) recommending that H.B. No. 2695, as amended in HD 1, pass Second Reading and be referred to the Committee on Labor & Public Employment.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2695, HD 1, pass Second Reading and be referred to the Committee on Labor & Public Employment, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I wish to disclose a potential conflict on Standing Committee Report No. 216-08, the Judicial Selection Commission. One of my partners, Rosemary Fazio, is the Chair of the Commission. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2695, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIAL SELECTION COMMISSION," passed Second Reading and was referred to the Committee on Labor & Public Employment with Representatives Sonson, Takai and Takumi being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 217-08) recommending that H.B. No. 466, HD 1, be referred to the Committee on Finance.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 466, HD 1, be referred to the Committee on Finance, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I would like a ruling on a potential conflict on Stand. Com. Report No. 217-08, Relating to Health. I work as a social worker in the emergency room and would be affected by this. Thank you," and the Chair ruled, "no conflict."

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

"Thank you. I'd like a ruling on a possible conflict. My husband works for St. Francis hospital. Thank you," and the Chair ruled, "no conflict."

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

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

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

"I would like a no vote also on 217 with a brief comment. This is Hawaii. We are the ones who respect everybody. We have sensitivity to culture, language, religion. And this bill unfortunately calls upon some people to go into a Muslim restaurant and ask for pork, if you

know the analogy. You don't go into a Catholic hospital and ask for an abortion or other kinds of remedial things.

"What we need here is an understanding that the land under St. Francis is Catholic owned, and there's a contract between the land-owner and the corporation; that they will operate a Catholic hospital. Why is this not an exemption? Year after year, I know it comes up. It's sensitive, it's hard, but I think if we come back to the aloha spirit and sensitivity to other's beliefs, you're never going to have a Muslim eating pork, and you're never going to have a Catholic doing abortion, so why do we do this bill? Thank you, Mr. Speaker."

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

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

"Thank you very much, Mr. Speaker. I'd like to make a few comments in opposition to measure. My opposition is not because I'm a Catholic, and St. Francis is owned by the Catholic Church. But my fear is that because of the fines that will be levied on the respective hospital that will not provide the emergency contraceptive services, and I'm certainly not opposed to that. This particular hospital, the fines may be unbearable, and they may stop their services at some point in time.

"They provide very important services throughout the State and especially in Neighbor Island communities like Hana. They provide dialysis services. They're one of the top in renal health services. If they were to stop providing these specialized services they have, it will hurt the whole community. Not just the church. Not just the hospital.

"So what I am asking is that when this gets to the Finance Committee, if they can look at these questions of the fines and look at some other measure, possibly to convince them to have and to provide the services. If not, provide an exemption. Provide an exemption because they provide too much of the necessary services for us throughout the State. I believe that it's not too much to ask. We've made many exemptions in the past for different kinds of programs. We can make an exemption for this. Thank you very much."

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

"Mr. Speaker I'd like to ask for a ruling on a potential conflict on this matter. In my law firm, I actually represent Planned Parenthood," and the Chair ruled, "no conflict."

Representative B. Oshiro continued in support, stating:

"Thank you very much. Given that I'd like to stand and give a few comments in support. Very briefly, I just wanted to counter some of the arguments that have been raised regarding the First Amendment. First and foremost I want to point out that what we have here is a covenant that's running with the land, it's not anybody that's currently operating the facility of St. Francis or as it used to be known as St. Francis, that has a 'religious belief' that may be infringed upon when it comes to emergency contraceptive. All we have is a covenant that runs with the land. So we're not infringing on anybody's practice.

"But let's get to the next question which is the freedom of religion. If we look at that, we are not by intent burdening their religion. That's just an incidental affect. If we had been doing that with an intentional act toward burdening their religion, that would potentially be subject to strict scrutiny of the highest standard under the freedom of religion analysis. But instead what we have is just an incidental affect.

"When you have an incidental affect that applies to everybody, but they may be swept in, the question is whether you apply strict

scrutiny, or the next lower level which is just a heightened scrutiny. If it's a heightened scrutiny, which is as I purport it is, all you have to show is there is a particularly important government goal, and I think protection of sexual assault victims is a very, very important goal and easily meets that test.

"The next prong of that test is whether any exemption would substantially hinder the fulfillment of that goal, and here I would argue that it would. I think providing an exemption would undermine the goal of what we want to provide which is a network so that any sex assault victim can go to any facility and feel that they can get the adequate treatment that they need.

"And for those reasons, I don't feel that the First Amendment analysis, or the freedom of religion analysis is applicable. Thank you."

Representative Souki rose to respond, stating:

"Yes, rebuttal please. Of course I'm no attorney, to the learned Floor Leader who I admire for his skills in law, and certainly what he is saying is a lot of truth. But we must remember, when you say it provides a lower standard, I don't understand that, because it does at least provide a covenant that you don't provide those kinds of services. And this covenant then prohibits the hospital from providing the emergency services. That is my fear.

"As we go along, I'll be talking of course to the learned Floor Leader and try to understand a little bit more, that in fact there is some protection because it's a lower standard. But at this point Mr. Speaker, I am fearful that this lower standard will provide a fine and that has a potential of hurting the hospital, when we know that all hospitals are working at a loss. It's going to further exacerbate the problem. So before I get too emotional on this, I'll sit down, Mr. Speaker. Thank you."

Representative Ward rose to respond, stating:

"Brief rebuttal to the learned Floor Leader from Aiea. I believe he's overstepping the nature of the contract between the landowner and the provider of the services, or the owner of the hospital. To my understanding there's a contract clause that they will in effect operate under Catholic guidance and principles, the hospital. Saying that there's no nexus between the landowner and the operation of the hospital, I think he's overstepping a big, big factor.

"And if I go back to my original analogy, it's like the landlord was a Muslim who rents to somebody who's going to sell pork. It's just not logical that there is no nexus between the two. So if you see that nexus, that relationship, it's clear that an exemption would just put this aside and all this wrangling and all these constitutional issues would be put to rest. We just have to be sensitive to all the beliefs of others, which we do in every case, in all issues. So why not this one, Mr. Speaker? Thank you."

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

"I'm standing in opposition, and I'd like to offer a couple of comments. I was at the hearing of this particular matter, and Members have dealt with this issue over and over in the past Sessions and some of us did support it. I for one have supported an exemption. But the testimony at this particular hearing when this was heard in Judiciary, was revealing in this way.

"First they say there is a protocol that exists. That when there is a report of a sexual assault, that the emergency services like the hospital, the police, those who are first responders adhere to a certain protocol, and that is to ensure that this particular victim of sexual assault goes to a facility that's suited for that particular condition or injury. And by the way, it's the Kapiolani Women's and Children's Hospital.

"When listening to the proponents of the measure very carefully, I understood that we do want to include other kinds of emergencies. For example, somebody that walks into a St. Francis hospital or any hospital, or any emergency room, that somehow if it's revealed during the process of treatment that there is a sexual assault whether it be that particular same incident or previously, that then they would also want the hospital emergency responders to give the same kinds of response. I think that by using the sexual assault victims as a way to gain sympathy in this particular measure I think that's a misrepresentation of actual reality of what's happening out there.

"What is happening out there is that sexual assault victims are being cared for properly with a certain protocol. If we want to advance that agenda however, which is destroy any opposition to abortion, I think that is a separate matter and I think that what's being accomplished, by trying to force a facility who will adhere to their particular religion, or adhere to a contract that limits their ability to accept certain kinds of procedures that is abortion.

"I understood also from the testimony that the Catholic services do provide some counseling. Let me give you an example. According to the testimony there is something from the Catholic church that says that if a question arises whether this person had been a sexual assault victim, the question then is whether or not she would be subjected to a pregnancy test. If a person is subjected to a pregnancy test and it comes out negative, we would allow this pill to be administered. We would not be in opposition to that. However if the person comes out pregnant under this particular test, then we do have other means to provide help by paying for this person's transportation from this clinic to another clinic. I don't see any reason why we could not allow such things to happen.

"Why resort to this when there are other means to achieve the same goal? If we're truly concerned about sexual assault victims, why don't we look at that? But at the same time, do we need to put our thumb on this particular facility and say, 'Yeah, yeah. You're going to have to do it too.' I think that's what's happening here. I think that the facility, St. Francis is a very important facility needed to achieve our goal which is to provide needed medical care. I think that we should also provide help for sexual assault victims in other ways and they can also be of help to that because they agree, they pay for the cost of transportation, they agree to ensure that they will receive the kinds of help that they cannot receive in St. Francis. I don't think this is unreasonable, given that they do have the right and they have a constitutional ... I'm almost done."

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

Representative Sonson continued, stating:

"I can make my point in less than 30 seconds. I will again urge my colleagues to look at the real reality. It's already been achieved. If we want to help sexual assault victims, it's already been achieved. We do not need to put our thumb on this facility. That is not necessary. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Many would agree and support healthcare institutions that limit their service to members of their own faith, such as Christian Scientists' sanatoriums, should be allowed to use religious beliefs as a framework for providing services. However, when religion affiliate organizations such as a clinic or a hospital move into a secular purpose, that is providing medical care or social services to the general public, and accepts public funding, that organization should no longer be shielded from the general application of the law.

"There are three reasons why the status quo in Hawaii is not good enough when it comes to emergency care services for rape victims. First the prescribed rape treatment is a protocol, not a law or even a

rule or regulation. This protocol is a recommended practice, not a mandate. The protocol can be ignored, withdrawn or weakened in any situation, at any point.

"Second, although the existing rape protocols have been a positive step in improving the care of sexual assault survivors, it stops short of requiring hospitals to provide an emergency contraceptive on site. Hospitals may give the patient a prescription to be filled elsewhere or refer her to another provider. However, sending a traumatized rape victim to a pharmacy or yet to another health facility should not be an acceptable practice, especially when it concerns dispensing a time-sensitive medication.

"Third, according to a 2002 Healthy Mothers, Healthy Babies survey, 90 percent of Hawaii's hospital emergency rooms do not provide emergency contraceptives on site to rape victims. So if a rape victim chooses not to report the rape to the police or call a rape crisis center, but instead goes directly to an emergency room, there is a possibility that all treatment options may not be disclosed. This will increase the chance of an unintended pregnancy and the victim having to face an agonizing decision of what to do next should a pregnancy result from the rape.

"A law is needed to ensure a rape victim has all health options disclosed to her to make an informed decision based on her own personal belief, not the institution, but her own personal belief.

"There's one more point I want to make. This is the ethical and religious directive for Catholic healthcare services to make an exception for rape victims. That directive states: A female who has been raped should be able to defend herself against a potential conception from sexual assault. And there's an article in the September/October 2002 Health Progress, this is the journal of the Catholic Health Association of the United States and written by the Association's Senior Director of Ethics and it explains this exemption. The article states that, 'Catholic teachings allow for the administration of emergency contraception within moral limits. Measures taken to prevent conception in such cases fall outside the general prohibition against contraception because the assailant act is a violation of justice and any semen within a woman's body is considered a continuation of the unjust aggression against which she may willfully defended herself.'

"So I hope these arguments help this body to understand the situation better. Thank you."

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

"I rise in support of the measure. Mr. Speaker according to law enforcement reports, a woman is raped every six minutes. In addition to the already traumatic experience, another issue which is also avoidable is the potential of an unwanted pregnancy. In fact, over 32,000 women become pregnant each year due to sexual assault. Although emergency contraception may provide some relief for the victims of a heinous crime of sexual assault, only a small percentage of women are able to take advantage of it's availability.

"Emergency contraception is an effective, safe FDA approved method to prevent unintended pregnancy, I repeat: to prevent unintended pregnancy. If the person is pregnant, it does not cause termination. It should be easily available in all hospitals if they are the first place victims look to get treatment for sexual assault. The bill mandates that hospitals provide information and emergency contraception to sexual assault victims. While it's impossible to reverse the horrific actions of a sex offender, I believe this will facilitate the process of healing for the victim. How emergency contraception could be denied to the victim of the violent act of rape is really beyond my comprehension. We must be sensitive to the needs of victims and I urge my colleagues to support this measure. Thank you, Mr. Speaker."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 466, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was referred to the Committee on Finance with Representatives Ching, Finnegan, Meyer, Pine, Souki and Ward voting no, and with Representatives Sonson, Takai and Takumi being excused.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 218-08) recommending that H.B. No. 3105, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3105, entitled: "A BILL FOR AN ACT RELATING TO OSTEOPATHY," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Sonson, Takai and Takumi being excused.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 219-08) recommending that H.B. No. 3148, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3148, entitled: "A BILL FOR AN ACT RELATING TO CONDITIONAL RELEASE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Sonson, Takai and Takumi being excused.

At 12:46 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:46 o'clock p.m.

Representative Green, for the Committee on Health presented a report (Stand. Com. Rep. No. 220-08) recommending that H.B. No. 2393, as amended in HD 1, pass Second Reading and be referred to the Committee on Higher Education.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2393, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Higher Education with Representatives Sonson, Takai and Takumi being excused.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 55 through 57) and concurrent resolutions (H.C.R. Nos. 64 through 66) were referred to Printing and further action was deferred:

H.R. No. 55, entitled: "HOUSE RESOLUTION SUPPORTING H.R. 506, THE HEALTH PARTNERSHIP THROUGH CREATIVE FEDERALISM ACT," was offered by Representative Herkes.

H.R. No. 56, entitled: "HOUSE RESOLUTION OPPOSING THE PROPOSED AMENDMENT TO INTERNAL REVENUE SERVICE REGULATIONS ELIMINATING THE DEDUCTIBILITY OF CAPTIVE INSURANCE COMPANY RESERVES," was offered by Representative Herkes.

H.R. No. 57, entitled: "HOUSE RESOLUTION SUPPORT OF SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT," was offered by Representative Herkes.

H.C.R. No. 64, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING H.R. 506, THE HEALTH PARTNERSHIP THROUGH CREATIVE FEDERALISM ACT," was offered by Representative Herkes.

H.C.R. No. 65, entitled: "HOUSE CONCURRENT RESOLUTION OPPOSING THE PROPOSED AMENDMENT TO INTERNAL REVENUE SERVICE REGULATIONS ELIMINATING THE DEDUCTIBILITY OF CAPTIVE INSURANCE COMPANY RESERVES," was offered by Representative Herkes.

H.C.R. No. 66, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORT OF SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT," was offered by Representative Herkes.

ANNOUNCEMENT

Representative Ching: "I just wanted to announce that today is Chinese New Year. *Kung hee fat choy sa nin fai loh san tai gin hong*. And the *gao* that you have on your on your desk is from the Chinese Caucus. That would be Representatives Ching, Chong, Chang and Say."

ADJOURNMENT

At 12:47 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 8, 2008. (Representatives Sonson, Takai and Takumi were excused.)