

SIXTIETH DAY

Thursday, May 1, 2008

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, convened at 10:06 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Joey Manahan, after which the Roll was called showing all members present with the exception of Representatives Bertram, Nakasone and Sagum, who were 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 Forty-Sixth, Forty-Seventh, Forty-Eighth, Forty-Ninth, Fiftieth, Fifty-First, Fifty-Second, Fifty-Third, Fifty-Fourth and Fifty-Fifth Days were approved. (Representatives Bertram, Nakasone and Sagum were excused.)

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 337 through 340; and 343 through 350) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 337, informing the House that on April 29, 2008, the following bill was signed into law:

S.B. No. 3004, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM." (ACT 041)

Gov. Msg. No. 338, informing the House that on April 29, 2008, the following bill was signed into law:

H.B. No. 3197, SD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION FOR THE STATE HIGHWAY SYSTEM." (ACT 042)

Gov. Msg. No. 339, informing the House that on April 29, 2008, the following bill was signed into law:

H.B. No. 3140, SD 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE HAWAII PUBLIC HOUSING AUTHORITY." (ACT 043)

Gov. Msg. No. 340, informing the House that on April 29, 2008, the following bill was signed into law:

H.B. No. 2301, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY." (ACT 044)

Gov. Msg. No. 343, dated April 29, 2008, transmitting the Report of the Temporary Hawaii Inter-Island Ferry Oversight Task Force.

Gov. Msg. No. 344, informing the House that on April 29, 2008, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 3200 SD1 HD1

On April 29, 2008, Senate Bill No. 3200, entitled "A Bill for an Act Relating to Governmental Retention of Attorneys," became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The bill would require the Attorney General to retain an attorney for a legislative or judicial office if legal representation was

requested for that office by the Chief Justice, or the Speaker and Senate President jointly, and the Attorney General declined to provide that representation on the ground of conflict of interest.

This measure is troubling because it would require the Attorney General to fund legal services from the budget of the executive branch for a separate branch of government. There appears to be no reason why such funding cannot come from the budget of the branch that is requesting the legal services. Moreover, there does not appear to be any pressing need for this legislation, as both the legislative and judicial branches of government have statutory authority to retain attorneys without the consent of the Attorney General.

However, the circumstances covered by the legislation are extremely limited. The legislation would be applicable only if there was a request for legal services, the request was declined by the Attorney General, and the specified reason by the Attorney General was conflict of interest. An argument can be made that if the Attorney General's stated reason for declining to provide representation is a conflict of interest and, thus, absent such a conflict the Attorney General would have provided legal services, the fiscal burden of the Attorney General's conflict of interest ought to fall on his department.

For the foregoing reasons, I allowed Senate Bill No. 3200 to become law as Act 45, effective April 29, 2008, without my signature.

Sincerely,

/s/

LINDA LINGLE"

Gov. Msg. No. 345, informing the House that on April 30, 2008, the following bill was signed into law:

S.B. No. 2956, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MILK." (ACT 046)

Gov. Msg. No. 346, informing the House that on April 30, 2008, the following bill was signed into law:

S.B. No. 3005, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM." (ACT 047)

Gov. Msg. No. 347, informing the House that on April 30, 2008, the following bill was signed into law:

S.B. No. 2569, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE." (ACT 048)

Gov. Msg. No. 348, informing the House that on April 30, 2008, the following bill was signed into law:

S.B. No. 3228, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADJUSTING THE ANNUAL PENSIONS OF RETIRED PATIENT EMPLOYEES AT HANSEN'S DISEASE FACILITIES." (ACT 049)

Gov. Msg. No. 349, informing the House that on April 30, 2008, the following bill was signed into law:

S.B. No. 3240, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER'S LICENSE." (ACT 050)

Gov. Msg. No. 350, informing the House that on April 30, 2008, the following bill was signed into law:

H.B. No. 2254, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO BANKS AND FINANCIAL INSTITUTIONS." (ACT 051)

The following messages from the Governor (Gov. Msg. Nos. 341 and 342) were announced by the Clerk and were received for possible consideration at a later date:

Gov. Msg. No. 341, transmitting H.B. No. 2263, SD 1, without her approval and statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 29, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2263

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2263, entitled "A Bill for an Act Relating to Harbors."

The purpose of this bill is to amend section 266-3, Hawaii Revised Statutes, to grant the Director of Transportation the specific power to adopt administrative rules limiting the noise emanating from State commercial harbors. The bill also amends section 291-36, Hawaii revised Statutes, to exempt from scaling any vehicles used in transshipping neighbor island bound cargo directly between piers located in Honolulu Harbor and any activities limited to crossing a public road, street, or highway within the State at locations approved by the director of transportation, in the case of State highways, or the county engineer, in the case of county roads and streets.

This bill is objectionable because part I relating to harbor noise imposes an unduly burdensome responsibility on the Department of Transportation, Harbors Division, to adopt administrative rules for the regulation and enforcement of noise emanating from State commercial harbors. The Harbors Division is currently implementing the Harbors Modernization Plan, which will understandably add to the activities of our harbors. Persons who moved into the area near commercial harbors knew, or should have known, that there would be noise emanating from the harbor due to cargo operations. To reduce noise, cargo operations may have to be restricted or costly noise abatement programs may have to be implemented, which could have harmful effects on the transport of goods into and out of the State and through the commercial harbor system.

Part II of the bill relating to the scaling of vehicles is also objectionable because it is in the interest of public safety that the Department of Transportation be able to ascertain the weight of all cargo-transporting vehicles that use the State's highways and bridges. All bridges have weight limitations and the weight of all cargo-transporting vehicles should be verified for compliance. In addition, over-weight vehicles increase the deterioration of highways and bridges at a faster rate and accelerate the need for repair and maintenance. Scaling ensures that vehicles remain within acceptable and safe weight limits and that violators pay their fair share of repair and maintenance costs.

For the foregoing reasons, I am returning House Bill No. 2263 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 342, transmitting H.B. No. 2045, SD 1, without her approval and statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 29, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2045

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2045, entitled "A Bill for an Act Relating to Establishing a Global Youth Center."

The purpose of this bill is to establish a Global Youth Center in the University of Hawaii. The purpose of the Center is to generate and link an international framework in which youth from around the world will actively engage in the attainment of world peace, environmental sustainability, and human and economic productivity for future generations. These youth shall, pursuant to the provisions of the bill, "collaborate with Hawaii's leaders in education, politics, business, the East-West Center, and appropriate international organizations."

The goals of the Global Youth Center proposed in this bill are commendable. However, after reviewing this measure in consideration with existing programs and resources, I cannot approve this bill.

Global Youth Center Inc. is a non-profit entity registered with the State of Hawaii and is awaiting final approval of their non-profit status from the Internal Revenue Service. Embedding a non-profit organization within a State agency raises the possibility of violating that portion of the State ethics law (HRS 84-3 and 84-13) and the published State Ethics Code (revised January 2007), which states, "You may not use state time, equipment, or facilities for private business purposes, including for-profit and non-profit corporations." Global Youth Center Inc. currently occupies office space in a building located on land owned by the University of Hawaii. This bill does not address whether employees of the Global Youth Center will be employees of the State and bound by applicable laws including collective bargaining, civil service, and the procurement code.

The University of Hawaii testified that they had concerns with the cost impact and placement of this program in the University. This bill does not address those concerns and provides no funding or administrative support to the University. The University of Hawaii identified its budget priorities as approved by the Board of Regents, and the Global Youth Center was not included as a priority. Further, the University of Hawaii was not involved in the planning process for the Center.

I encourage Global Youth Center Inc. to continue pursuing status as a non-profit registered in the State. Upon receiving final approval as a non-profit from the Internal Revenue Service, Global Youth Center Inc. can pursue appropriate State support through the Grant-in-Aid process.

For the foregoing reasons, I am returning House Bill No. 2045 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 723 through 731) were received and announced by the Clerk:

Sen. Com. No. 723, transmitting H.B. No. 2168, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," which passed Third Reading in the Senate on April 29, 2008.

Sen. Com. No. 724, transmitting H.C.R. No. 20, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO PROVIDE ADULT RESIDENTIAL CARE HOME OPERATORS WITH THE SERVICES NECESSARY TO ASSIST THEM IN PROVIDING CARE FOR ADULTS," which was adopted by the Senate on April 29, 2008.

Sen. Com. No. 725, transmitting H.C.R. No. 25, entitled: "HOUSE CONCURRENT RESOLUTION URGING ALL HOSPITALS THAT PROVIDE MEDICAL CARE TO NEWBORNS TO PROVIDE PARENTS OF THE NEWBORN WITH WRITTEN EDUCATIONAL INFORMATION APPROVED BY THE DEPARTMENT OF HEALTH ABOUT THE DANGEROUS EFFECTS OF SHAKEN BABY SYNDROME AND THE METHODS OF PREVENTING SHAKEN BABY SYNDROME," which was adopted by the Senate on April 29, 2008.

Sen. Com. No. 726, transmitting H.C.R. No. 51, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ASSESS THE ADVANTAGES AND DISADVANTAGES OF REQUIRING CERVICAL CANCER VACCINATIONS FOR GIRLS BEFORE THEY ENTER THE SEVENTH GRADE," which was adopted by the Senate on April 29, 2008.

Sen. Com. No. 727, transmitting H.C.R. No. 240, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE GOVERNOR TO DESIGNATE THE MONTH OF SEPTEMBER AS "BRAIN ANEURYSM AWARENESS MONTH"," which was adopted by the Senate on April 29, 2008.

Sen. Com. No. 728, transmitting H.C.R. No. 277, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII STATE CENTER FOR NURSING TO ENCOURAGE PARTIES TO WORK TOGETHER FOR THE COMMON GOAL OF INCREASING THE SUPPLY OF WELL-EDUCATED AND DEDICATED NURSES," which was adopted by the Senate on April 29, 2008.

Sen. Com. No. 729, dated April 29, 2008, informing the House that the following bills have this day passed Final Reading in the Senate:

H.B. No. 94, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 118, S.D. 1, C.D. 1
 H.B. No. 523, H.D. 2, S.D. 1, C.D. 1
 H.B. No. 660, S.D. 1, C.D. 1
 H.B. No. 661, H.D. 1, S.D. 3, C.D. 1
 H.B. No. 931, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 1153, S.D. 1, C.D. 1
 H.B. No. 1356, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 1365, S.D. 2, C.D. 1
 H.B. No. 1832, H.B. No. 1, S.D. 1, C.D. 1 [sic]
 H.B. No. 2062, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2139, H.D. 2, S.D. 1, C.D. 1
 H.B. No. 2204, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2245, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2253, H.D. 2, S.D. 1, C.D. 1
 H.B. No. 2255, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2272, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2346, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2366, S.D. 1, C.D. 1
 H.B. No. 2372, H.D. 2, S.D. 2, C.D. 1

H.B. No. 2386, S.D. 2, C.D. 1
 H.B. No. 2388, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2438, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2450, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2486, S.D. 1, C.D. 1
 H.B. No. 2492, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2500, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2511, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2519, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2520, H.D. 3, S.D. 2, C.D. 1
 H.B. No. 2550, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2557, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2661, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2697, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2700, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2727, H.D. 2, S.D. 1, C.D. 1
 H.B. No. 2730, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2739, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2761, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2763, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2772, H.D. 3, S.D. 1, C.D. 1
 H.B. No. 2781, H.D. 2, S.D. 2, C.D. 1
 H.B. No. 2810, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 2847, S.D. 1, C.D. 1
 H.B. No. 2920, S.D. 1, C.D. 1
 H.B. No. 2953, S.D. 1, C.D. 1
 H.B. No. 2972, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 2977, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3002, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3040, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3126, S.D. 2, C.D. 1
 H.B. No. 3173, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3174, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3175, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3177, H.D. 1, S.D. 2, C.D. 1
 H.B. No. 3178, S.D. 2, C.D. 1
 H.B. No. 3179, S.D. 1, C.D. 1
 H.B. No. 3249, H.D. 1, S.D. 1, C.D. 1
 H.B. No. 3331, H.D. 2, S.D. 2, C.D. 2
 H.B. No. 3383, S.D. 1, C.D. 1
 H.B. No. 3386, H.D. 1, S.D. 2, C.D. 1
 S.B. No. 69, S.D. 2, H.D. 3, C.D. 1
 S.B. No. 988, S.D. 2, H.D. 3, C.D. 1
 S.B. No. 1035, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 1337, H.D. 1, C.D. 1
 S.B. No. 1487, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 1526, S.D. 2, H.D. 3, C.D. 1
 S.B. No. 1793, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 1802, H.D. 1, C.D. 1
 S.B. No. 1891, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 1961, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2004, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2041, H.D. 1, C.D. 1
 S.B. No. 2054, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2055, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2080, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2146, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2150, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2157, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2163, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2170, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2196, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2212, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2218, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2245, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2293, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2314, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2334, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2341, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2345, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2365, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2373, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2396, S.D. 1, H.D. 3, C.D. 1

S.B. No. 2434, H.D. 1, C.D. 1
 S.B. No. 2449, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2456, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2459, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2542, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2546, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2644, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2652, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2663, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2668, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2730, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2768, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2785, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2803, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2825, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 2826, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2827, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2830, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2833, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2838, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2840, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2843, S.D. 2, H.D. 3, C.D. 1
 S.B. No. 2849, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2867, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2876, H.D. 2, C.D. 1
 S.B. No. 2878, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2879, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 2895, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 2933, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2961, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 2977, S.D. 1, H.D. 2, C.D. 1
 S.B. No. 3001, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 3008, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 3023, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 3051, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 3061, H.D. 1, C.D. 1
 S.B. No. 3069, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 3076, H.D. 1, C.D. 1
 S.B. No. 3087, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 3092, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 3102, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 3166, H.D. 1, C.D. 1
 S.B. No. 3171, S.D. 2, H.D. 2, C.D. 1
 S.B. No. 3203, S.D. 1, H.D. 1, C.D. 1
 S.B. No. 3227, S.D. 2, H.D. 1, C.D. 1
 S.B. No. 3255, S.D. 2, H.D. 2, C.D. 1

Sen. Com. No. 730, dated April 29, 2008, informing the House that the Senate has this day discharged all conferees on the part of the Senate to the following bill:

S.B. No. 1491, "RELATING TO CONTROLLED
 SD 1, HD 1 [sic] SUBSTANCES."

Sen. Com. No. 731, dated April 29, 2008, informing the House that the Senate has this day reconsidered its action taken on April 29, 2008, in passing H.B. No. 1832, H.D. 1, S.D. 1, C.D. 1, on Final Reading and that said bill has been recommitted to Conference Committee for further consideration.

INTRODUCTIONS

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

Representative Pine introduced her staff, Mr. John Gollner, Ms. Venus Lee, and Mr. Jame Schaedel.

Representative Evans introduced her staff, Mr. Tom Patrick McAuliffe, Office Manager Ms. Tommie Sukanuma, and Ms. Kylie Alcos.

Representative Ito introduced friends from Kaneohe, Mr. Jerry Kahuiwa, Mrs. Rocky Maite Kaluiwa, Mr. Alika Kaluiwa, Aunty Alice Chin Hewett, Aunty Caroline Bright, and Ms. Mahelani Keha Saifer.

Representative McKelvey introduced his staff, Ms. Tish Mercado, Ms. Lauren Valle, and Ms. Terii Perez.

Representative Saiki introduced Chair of the McCully/Moiliili Neighborhood Board, Mr. Ron Lockwood.

Representative Evans introduced an advocate for the families of the incarcerated, Ms. Kat Brady.

Representative Awana introduced her staff, Ms. Kanai Bulawan.

Representative Berg introduced her staff, Mr. Ian Lind.

Representative Thielen introduced Mr. Henry Curtis of Life of the Land.

Representative Ching recognized representatives of AARP.

ORDER OF THE DAY

SUSPENSION OF RULES

Representative B. Oshiro moved that the rules of the House be suspended for the purpose of considering certain bills on Final Reading on the basis of a modified consent calendar, seconded by Representative Meyer and carried. (Representatives Bertram, Nakasone and Sagum were excused.)

UNFINISHED BUSINESS

Conf. Com. Rep. No. 139-08 and H.B. No. 3377, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 3377, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. Mr. Speaker I stand in strong support of Conference Committee Report No. 139-08, H.B. No. 3377, SD 2, CD 1. Mr. Speaker, vehicle ignition interlock systems are not a new highway safety concept. Unfortunately Hawaii is one of five states that have yet to adopt these life saving devices, which is why it was no surprise that Hawaii has the highest percentage of alcohol related fatalities in the United States. Due to the advances in technology, and painstaking trial and error in other states, Hawaii is very fortunate now to be in a position to pass legislation to implement this program so that we can get drunken drivers off of our roads and save lives.

"In March of last year, I was hit head on by a drunk driver. By the grace of God and the cars we were driving, I did not sustain any serious injuries. After further investigation, I discovered that the young man who had hit me had been arrested for drunk driving on several other occasions and that his license had been revoked. The fact that he was still driving demonstrates to me that revocation of licenses was not working to get drunken drivers off the road.

"More recently, there have been a multitude of drunken driving accidents and fatalities here in Hawaii. As a result of my accident I spoke to the Chair of Transportation about drafting legislation that

would assist us here in Hawaii in getting drunken drivers off of our roads and to accomplish our ultimate goal of saving lives.

"Last year, the House Transportation Committee teamed up with Mothers Against Drunk Driving about vehicle ignition interlock devices. Consequently during the 2007 Legislative Session, the House Transportation Committee passed House Concurrent Resolution 28, Requesting the Hawaii Department of Transportation to Study the Feasibility of Requiring Vehicle Ignition Interlock Devices for Convicted Drunk Driving Offenders. Many of the recommendations made by the task force were placed into this measure, and while we still have other issues to deal with, this legislation is the first step in part of a greater treatment paradigm.

"I want to thank the Chairs of Transportation, Judiciary, Finance and Leadership for supporting this life saving measure, as well as our Senate counterparts. Special thanks go out to LRB for assisting us with the difficult drafting of the complicated language in this bill, and of course to Mothers Against Drunk Driving for staying the course, and for their dedicated efforts to get drunk drivers off the road. This legislation is truly going to make a difference in the State of Hawaii because it is going to accomplish the ultimate objective of saving lives.

"I want to thank all of you for supporting this legislation. I know that the Governor too is in support of this legislation as well as our Minority Caucus. And I truly believe that this is one piece of legislation where we can truly say that we've done our jobs. We are going to save lives and I want to thank all of my colleagues in the House. Thank you very much, Mr. Speaker."

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

"Mr. Speaker in strong support and may I have the words of the previous speaker adopted as if they were my own, except for the part about the accident," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3377, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 140-08 and H.B. No. 2531, HD 1, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 2531, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

Representative McKelvey rose in support of the measure, stating:

"Thank you, Mr. Speaker. I am in strong support on this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2531, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEST MAUI TRANSPORTATION ACCESS PLAN," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 141-08 and H.B. No. 357, HD 2, SD 1, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 357, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support of this measure. Mr. Speaker this bill appropriates funds to have the Department of Transportation conduct a pilot study to identify State and county intersections that may be unsafe or insufficient for elderly pedestrians, and to implement any immediate improvements to high risk crosswalks and road crossings.

"My district is a district which has had, unfortunately, many pedestrian accidents due to crosswalks or lack thereof. Mr. Speaker Hawaii has the highest percentage of senior age pedestrians in the country and our senior age pedestrian death rate is almost three times that of the rest of the United States. From 2001 to 2005, a total of 150 pedestrians were killed in Hawaii and that accounted for a quarter of all traffic related deaths in the State. With Honolulu's ever increasing traffic problem and traffic problems increasing on Neighbor Islands, it is even that much more important now to implement this study. Thank you very much."

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

Representative Belatti's written remarks are as follows:

"I rise in strong support of House Bill 357, Conference Draft 1 which seeks to immediately identify and implement improvements to high-risk crosswalks and road crossings throughout the State.

"Pedestrian safety is a concern held by many throughout the State, but it is especially high on the list of residents in my district who experience the realities of dense, urban living on a daily basis. According to *Honolulu Advertiser* reporter Rob Perez in April 2007, the State Department of Transportation identified the intersection of King and Punahou Streets, with 30 crashes, as the location with the second most major crashes during the period of 2002 through 2004.

"I am hopeful that with this bill, State and county officials will immediately implement improvements at our most dangerous intersections, wherever these intersections and road crossings may be. Because the beneficiaries of these improvements will be the elderly, children, and disabled persons who are the most at risk on our dangerous streets, I am in strong support of this bill."

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of this measure that seeks to increase the safety of pedestrians, especially those who are elderly.

"The purpose of this bill is to appropriate funds to the Department of Transportation (DOT) for conducting a pilot study to identify State and county intersections where the time to cross the intersection is insufficient for elderly pedestrians and to implement any immediate improvements to high-risk crosswalks and road crossings.

"A report of elderly pedestrians prepared by SMS Research & Marketing Services for the Department of Transportation indicated that there are approximately 560 pedestrian injuries in Hawaii each year, and that an average of 28 pedestrians die each year after being struck by a car. Elderly pedestrians, age 65 and older, constituted the highest number of pedestrian fatalities when compared to all other age groups in Hawaii.

"Elderly pedestrians require more time to cross major intersections and crosswalks due to diminishing physical abilities. The limited traffic signal timeframe to cross a street puts elderly pedestrians at risk.

"The amended measure appropriates one million dollars to the Department of Transportation to:

- (1) Work with the counties and nonprofit organizations to take immediate action steps to make high-risk crosswalks and roadways safer;
- (2) Conduct a study to identify intersections at which the time for crossing is too short for elderly pedestrians; and
- (3) Develop additional plans to make crosswalks and roadways safer.

"This measure also stipulates that the study conducted by DOT focus on several key points and that DOT submit a report of its findings, accomplishments, future plans, cost estimates, and any proposed legislation to the Legislature.

"I urge the Members to support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 357, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC SAFETY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 142-08 and H.B. No. 2843, HD 2, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 2843, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in support. Mr. Speaker this measure repeals the law imposing a \$1 fee for each maritime 20 foot equivalent commercial container ship. This would derive a special fund income of some \$550,000 per island. But this new bill takes us a step further, imposing a fee assessment based on \$.50 per 1,000 pounds of freight, not only toward marine freight, but also air freight or any other means of shipment, foreign or domestic.

"During fiscal year 2006, some 7.1 billion pounds of commercial cargo entered into our State: 98.5 percent was via marine; and 1.4 percent from air. With this \$.50 per 1,000 pounds fee, the total annual revenue is projected to be \$7.1 million. Economically speaking and using a 15 percent deflation adjustment, or downward adjustment, the projected revenue would be some \$6.035 million per annum: \$85,000 attributed to air cargo income; and \$5.95 million to marine cargo.

"Hawaii Department of Agriculture estimates they need at least some \$6 million annually to support this biosecurity program to prevent the importation and spread of invasive species. Converting this weight methodology from cost to value in a comparative relationship, a 6,000 pound vehicle is used as an example. Therefore the fee assessment is \$3 for freight costs based on this \$.50 per 1,000 pounds assessment. With the assumption that a port of entry value of this vehicle is valued at \$30,000, the fee cost of \$3 to the \$30,000 vehicle value, the cost value relationship result is very negligible Mr. Speaker: \$.001 or 1/1,000th penny; or just 100th of 1 percent.

"Mr. Speaker, I believe that this body should strongly support this measure. Again the investment is microscopic. The perceived value is priceless. The State DOA continuously warns the Legislature saying, "The present problem is severe, the future very well may be even more dire, so piecemeal action will not be sufficient. Drastic improvements must be made now to stem the tide of invasive species." DOA further notes that ships alone bring in a half million

sea containers carrying 25 million cartons of cargo into the State every year and another half million sea containers move interisland.

"More revealing is the fact that 20 new insects get established each year with 2 to 3 becoming significant pests, affecting agriculture, environment, and even our public health. HDOA's total estimate of annual costs to Hawaii with input values that include power outages, medical incidents, affects on tourism and endangered birds ranges anywhere from \$485 million per year, to \$1.9 billion with regard to the brown tree snake alone. The aggressive fire ants will cost us another estimated \$200 million per year if it establishes residency.

"Last year, our State Legislature was generous in appropriating \$650,000 in general funds to combat the invading varroa mites which can push our honey bee industry into extinction."

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

Representative Tsuji continued, stating:

"Thank you, very much. The brown tree snakes have a tendency to cling to power lines, creating power outages. The fire ants, besides being very harmful to our agricultural industry, is considered a medical threat to our large senior population. We have a large percentage of elderly, including those of Asian and Pacific Islander ethnicity who have diabetes and are known to have a medical reaction to the fire ant's toxic sting. Our State plans an aggressive airports and harbors modernization and improvements program. The plans call for a coordinated effort with our biosecurity initiatives. There should be no lack of understanding or underestimation Mr. Speaker, of our unique concerns regarding the unwanted importation of these harmful organisms. The sustainable funding source as provided by this measure is absolutely necessary. Mahalo."

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

"Thank you, Mr. Speaker. I'll be voting no on this measure. Last year we passed a bill that established a fee of \$1 per container. California has a fee that's quite a bit higher than that on a container. My experience in these 14 years is that once we set a fee or new tax, it never goes away and we just keep increasing it. The people of the State of Hawaii are really taxed to the max, and the cost of living here continues to go up.

"And as I read on the floor on Tuesday, a letter from one of my constituents, people are struggling and the concern is to somehow stem the bleeding, stop adding more and more costs to just the average guy in Hawaii. This bill if you looked at how it will affect various businesses and the consumers, because when businesses pay this, they pass it on to the consumer in increased costs.

"Currently an ocean container of frozen packaged food is charged \$1 for their container. However, based on the new formula for calculating the inspection fee, as established in this bill, the same container will now cost an estimated \$19. This will make it even more difficult for Hawaii businesses to keep up financially.

"I realize that we don't want all these different bugs and organisms getting in here, but this seems like a service that should be covered by general funds, not a special fee. It's something that affects the whole State, but once we add this, where will it end? Next year we'll make it \$2 a ton. These special funds are not transparent. You have to make a special effort to find out how much money is in there. I believe that we should be just allocating general funds for this kind of a problem. Thank you, Mr. Speaker."

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

"Just a quick rebuttal. In support. I would like to rebut the previous statement. Two days ago, I spoke on the Administration's request to

add four full-time positions to DCCA to micromanage money transmitters. Four full-time positions being added, and that's hundreds of thousands of dollars every day, Mr. Speaker. I could use that same argument that, that is a tax on small businesses, and when I spoke up against that measure, none of the people on the opposite side of the aisle spoke up to agree with me on that measure. Thank you, Mr. Speaker."

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

"Mr. Speaker I rise to rebut the rebuttal. Mr. Speaker the reality is in Hawaii since 2002 to 2007, the cost of living has risen 89 percent. That's reality, whether it's fuel or electricity, property taxes and on and on and on. What my colleague was simply trying to say is, let us Members be cautious. That everything that has a good cause has also a negative possibility to it. Every cost has a benefit, every benefit has a cost. We must be aware of that. I think it's like a *kabuki* play you have got to be aware of what's going on in the background. Every time we say this is a great thing. We have to be conscious that the people who are struggling and those who are not surviving very well because of this 89 percent increase. Every little increment is turning up the heat on the water that cooks the frog. When the water was boiling, the frog would never jump into it. But if it gets into warm water, it's comfortable, and then you slowly turn up the heat, you cook it to death. We don't want to do that to the people of Hawaii, Mr. Speaker. We have to be very conscious of the cost of living. This is a great cause that the Representative from Hilo spoke of but we have to be conscious of ratcheting up the heat on the people of Hawaii. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I speak in opposition. The Representative from Hilo makes some very good points. I don't disagree that we have to take this issue very seriously. However, when I go, and just within this year, going to the different grocery stores, as well as Costco, or wherever you shop, I've seen a significant increase in prices. There is a significant increase in prices when I'm going to check out my food, from milk to bread or whatever it is. When you take a look at this, it's not a miniscule type of increase. We are talking about currently on an ocean container, frozen packaged food is charged \$1 to \$2. However, based on this new formula established in this bill, the same container will now cost an estimated \$19 for inspection.

"This also covers any goods that are transported not only by ship, but airplane and other modes of transportation. And one of the other things that we have to remember is that there's this legislation looming over us in California that basically states that we will be charged more for cargo coming in from Los Angeles and Oakland and other places in California. This is all higher costs for that food bill that we go and we check out on a daily basis to feed our family. If we don't keep an eye on these kinds of things and work, not against biosecurity, but being able to balance some of these things out so that we can help with the cost of living for our families. It comes down to real people, real issues for families out there. This is not some kind of thing where we just turn our backs to it and say, 'Let's wait until something disastrous happens.' We can do things now. These are the kinds of things that we're looking out for. And I hope that when we pass these types of legislation that we're seeing those kinds of faces out there that will be affected by this. Thank you."

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

"Thank you, Mr. Speaker. I just wish to express some reservations and I really agree with the words of the previous speaker. I feel that the California assessment, if it goes into effect, will seriously hurt our cost of living. My grocery bill was \$150 last week and it's only for me and my husband, and believe me, I don't cook every night. If we're sending our bread to the mainland and it comes back here, it

would really increase our cost of freight. I think the Neighbor Islands will feel it more than Oahu would. It's going to affect our pocket books and we're really going to notice it in the supermarkets because prices are going up there for many other reasons.

"This is a bad tax on our people, and I would much rather raise the money for invasive species by assessing outgoing tourists for debarkation tax or some other means. This is everything coming in. It affects us, and I'd rather catch people when they're going out. Thank you very much."

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

"In support. Of course the war in Iraq is not costing us anything."

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

"Thank you, Mr. Speaker. I'm standing in support. Mr. Speaker, I didn't want to stand. I wasn't planning to. But in regards to this issue, I look at this bill as a protective measure that's going to help protect one of our most important industries, tourism.

"I had the privilege of going to Puerto Rico and hearing the coqui frog, and I could just imagine the devastation that would have on our economy and our tourism industry if we were known for having this type of invasive species in the Waikiki and Neighbor Island areas that are valuable to the economy. In addition Mr. Speaker, there are other invasive species that could come through our ports and our airlines to invade and impact negatively the quality of life of our citizens.

"Mr. Speaker I went to an activity at a park and was bitten by these red ants, quite a number of red ants and I could just imagine if these ants infected the playgrounds throughout my community, throughout our State. What parent would let their kids play in a playground infected by these types of invasive species? So Mr. Speaker, I rise in support. Thank you."

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

"Thank you, Mr. Speaker, in support. One of the few times I like to spend State money is for children and nature. I guess this is one of those times, I'm agreeing with the positive testimony given by the Chairs of the Department of Land and Natural Resources and the Department of Agriculture. It appears for the most part that the Administration supports this bill and it would be to raise by \$0.50 every 100,000 pounds of freight coming into the islands.

"Currently we're losing the war on invasive species and it may already cost us \$400 million annually without this measure. Recently we've been losing the war to save our native *wiliwili* tree among others. I would agree with the Governor's Economic Momentum Commission which said that it was very important to review all fees to ensure adequate prevention and quarantine. And in testimony by the Chair of DLNR, 'A lack of adequate sustainable funding is the single greatest problem the State, federal and private agencies face in the fight to protect Hawaii from harmful invasive species.' Thank you."

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

"Thank you, Mr. Speaker. I'm standing in opposition to this measure and I'd like to adopt the words of the good Representative from Kahaluu. In addition to that Mr. Speaker, perhaps the Chair of Agriculture could clarify for me the extent of this formula that's been mentioned several times in the speeches we've heard before. As I look at the numbers, it seems like its \$0.50 not for every 100,000 that was previously mentioned but it's \$0.50 for every 1,000 pounds of freight into the State or part thereof. So this part thereof means part

of the 1,000, which means five pounds? Could a computer come in as freight and be charged \$0.50? Could anything shipped and bought by catalog and come in as freight be charged \$0.50? Anything that comes in and is labeled as freight, or labeled as passenger goods are included in this.

"So it's very broad and will include anything from airfreight or other transporting freight, foreign or domestic brought into the State. So it could be catalog purchases. It could be anything that's ordered through the Internet, as long as it comes in as freight. So it's \$0.50 for anything that's 1,000 pounds or less.

"I'm not sure if that's what we intended to do, but if it is and if this is what I fear that it says it does, then I think this would be a huge tax on the people of Hawaii at a time when the economy is really slowing down. I believe that this is a huge burden to carry by the people of Hawaii. So those who support this, please be aware of these words or the accurate details in this bill. If I'm wrong then I'm wrong, but that's what I see, that's what I understand at this point and I think I can't support such a bill at this point. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, I rise again with reservations. Mr. Speaker let us not be confused. No one wants ants in the pants of the Representative from Mililani or any of his constituents, or anybody anywhere in Hawaii. That's not what we're talking about. That is the good part of the bill. But let us not be confused about money as the solution.

"All of us know in the body prior to the SuperFerry, no one knew that the 500,000 containers per year that come into this place and go between the islands on our barges were never inspected. The airlines that were going in and out were never inspected. The construction workers' boots that they would walk in and out of the airplanes were never inspected. Until the SuperFerry came, we didn't realize we had a management not a money problem, but now we realize we have both. We're only saying let's pay attention to one. Just throwing money at it is not going to do it.

"This one is well-intended, but let us be aware of the costs that we put on the back of the people of Hawaii in the management of our resources. Heretofore, when all the things came here, the coqui frog and all the other things, that was a mismanagement that was a lack of oversight in what was coming and going. Now we know. Now we're wiser. And hopefully we can do better."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition of C.C.R. 142, H.B. 2843, H.D. 2, S.D. 2, C.D. 1 which expands the items subject to the inspection, quarantine, and eradication service fee (inspection fee) to include any freight brought into the State.

"This bill will impose a significant increase of the current inspection fee for all commercial freight regardless of the mode of transportation. As an example, the current cost of inspecting an ocean container of frozen packaged food is between \$1 and \$2; the new formula for calculating the inspection fee on the same container will cost \$19. An increase in inspection fees will always translate to the consumer and will make it even more difficult for small Hawaii businesses to keep up financially.

"I was also disappointed that the Representative from Ka'u used the cost of the war in Iraq in his argument as a pot shot at the current Administration. It was an uncalled for statement that had no relevance or relation to what was being debated on the Floor.

"Thank you, Mr. Speaker."

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

Representative Yamashita's written remarks are as follows:

"Mr. Speaker, I rise in support of HB2843, CCR142-08.

"The cost of living in Hawaii has risen sharply, and some opponents of this measure have made the claim that a fee charged against those shipping goods into the State will only compound the price of paradise. However, it is clear that the up-front cost charged shippers is a fraction of the amount the State would pay, should an invasive species outbreak occur.

"Secondly, some opponents of this measure have argued that funding this measure through the State's general funds, as opposed to charging shippers directly, would ease the financial burden on Hawaii's consumers. We have examined this possibility closely, but by directly charging shippers, the correlation between fees and careless shipping practices is more greatly reinforced. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2843, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Final Reading by a vote of 44 ayes to 4 noes, with Representatives Finnegan, Meyer, Pine and Sonson voting no, and with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 143-08 and H.B. No. 3120, HD 2, SD 1, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 3120, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I'm rising in support, but with reservations. This is the bill dealing with the animal quarantine facilities and the fact that the Board of Agriculture would like to lease the property to another entity. The concern in the various Committees was that the law, as it exists now says, fair market value. That they should figure out the lease based on the value of the property. And it was felt that that would be so high that you'd have no takers.

"On the other hand, when they did put it out to bid they had two different groups make an offer to pay nothing. And that seemed to be okay with the Department of Agriculture, but it was not acceptable to many legislators that were listening to the testimony. So what we ended up with now after Conference between the House and the Senate is the wording, 'A reasonable lease rent as determined by the Board of Agriculture.' My concern is, since it looked like they determined paying nothing was acceptable, this leaves it wide open for that.

"This is property in Halawa Valley right next to property owned by the Queen's Hospital that is leased for multi-millions of dollars to various businesses. The old Crazy Shirts was up there, Hobart Manufacturing Company, and various tech companies. It's ten minutes from Downtown Honolulu. This is very valuable property and yet we are leaving it up to the Department of Agriculture to decide what is reasonable.

"I believe that the government and the Legislature have a responsibility to see that they handle their properties and assets responsibly. You can take into consideration the Humane Society who was one of those bidders. The Humane Society does good, fine work. They also have a lot of money in various accounts. People who

are so appreciative of the work that they do, when they pass away they leave millions of dollars to the Humane Society. I think we have a responsibility to try to maximize revenues while still being reasonable, and that's my concern with this bill. Thank you."

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

Representative Tsuji's written remarks are as follows:

"The Halawa animal quarantine facility is ideal for an animal shelter because of its central location. Hawaii currently lacks sufficient companion animal shelters, particularly for use during emergencies and natural disasters.

"This bill seeks to provide greater flexibility to the Board of Agriculture in contracting the use or rental of animal quarantine facilities or property.

"It is the intent that the Board of Agriculture shall consider such important factors as the length of the lease to be awarded, the cost of improvements to be expended by the lessee, whether the lessee is a profit or not-for-profit organization, the benefit to the public, and the financial viability of the lessee when determining a reasonable lease rent."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3120, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL QUARANTINE FACILITIES," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 145-08 and H.B. No. 3352, HD 2, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 3352, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support of Conference Committee Report 145-08. The purpose of this bill is to ensure effective and reasonable advocacy services to persons with developmental disabilities or mental illnesses by requiring an audit of the agency designated by State law to ensure the protection of persons with such disabilities. This is to ensure that State funds are being spent in accordance with applicable law.

"First, the Hawaii Disability Rights Center, or HDRC, has not been subject to State review or oversight in the thirty years since its designation. Mr. Speaker if I may break it down in this matter. HDRC has never had a State audit in its thirty-year history – never. The State audit would ensure that protection and advocacy systems use of public funds in Hawaii is appropriate, efficient and in conformance with State law. The audit will review substantially more than a federal audit and may even confirm that HDRC has fulfilled their mandated and fiduciary responsibilities to the State and our disabled population.

"The audit will also provide information about the management of HDRC and provide the State with information that promotes an understanding of HDRC's financial condition. Ultimately this audit will serve to improve HDRC's operations and benefit HDRC by identifying their strengths and areas of concern. I respectfully urge Members to support House Bill 3352. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition. I didn't plan on standing up on this, but after listening to my colleague's comments I just need to state for the record that throughout the life of this bill I was very concerned about the use of an audit against one agency when there is an ongoing lawsuit. It seems to me that this is a very targeted audit that might be unnecessary and that once again may be overstepping our boundaries. The question I would pose to Members is: should we audit every single nonprofit that receives State monies through the grant-in-aid process? I think the answer would be no. I understand the advocates of this bill and why they would want this audit, but at this time I can't support it. And I would rather see this taken care of through the judicial process. 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. 3352, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER," passed Final Reading by a vote of 44 ayes to 4 noes, with Representatives Belatti, McKelvey, Meyer and Rhoads voting no, and with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 146-08 and H.B. No. 2863, HD 2, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 2863, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

Representative Shimabukuro rose in opposition to the measure, and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." [Note: Representative Shimabukuro later changed her vote to an aye vote with reservations.]

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise to speak with reservations regarding HB 2863 – Relating to the Establishment of a Renewable Energy Facility Siting Process.

"While I am strongly in favor of environmentally friendly renewable energy projects, I cannot support a process that bypasses laws and rules of county and State that have been enacted over many years to protect both our environment and the public's right to provide input.

"The need for clean and affordable energy is but one of several situations, bordering on crisis, that presents challenges for our State and nation. As Chair of the Committee responsible for dealing with our current affordable housing crisis, I have had to weigh arguments that favor and oppose expediting long-established permitting processes. In making my own decisions, I have seen the importance of striking a reasonable balance.

"This measure, in my opinion, does not meet the "balance" test. It puts too much power in the hands of one governmental agency and its newly established coordinator. It takes away power from legislative bodies and from the community.

"This bill deals with big projects—those with at least 200 megawatts of capacity. The bill description focuses on the "siting." But as we read through the bill, we see that it also addresses the wider impact of transmission lines. We are all familiar with past power line controversies where community input proved invaluable. This bill would deny the public many of the traditional avenues to exercise their rights as citizens.

"For these reasons, Mr. Speaker, I have strong reservations about this bill."

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

"Thank you, Mr. Speaker. I'm in support with just a few brief comments. Mr. Speaker, this measure has been something that I've been watching closely and I think it demonstrates our commitment to renewable energy in this State. The debate throughout the Session has been whether we develop a consolidated or a coordinated approach to permitting renewable energy facilities. What I really appreciate about this bill is that the House and the Senate have chosen a coordinated process. As you look through this bill, one thing I would like to stress is that the environmental impact statement process is preserved and that is the threshold matter that needs to be resolved before any of the other permits need to be approved. I think this protects the public input process and it very clearly shows that businesses cannot jump over the EIS process. So for those reasons I support this. I know that there are some advocates in the community who are not happy with this bill, but again, I think it does demonstrate a forward looking approach to how we deal with renewable energy. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I am in strong support, and may I have the words of the previous speaker entered into the Journal as if they were my own. I also have just a brief comment. Oil, Members is at \$120 a barrel. It is expected to go to \$225 a barrel by the year 2012. The world is looking at Hawaii. We can either be the leader and prepare for the future or we can face the wrath. But we have to act now. It preserves the environmental review process, but it also allows us to move forward quickly. We are running out of time Members. Thank you."

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

"Thank you, Mr. Speaker. In support with some reservations that I'd like to express. This bill establishes a renewable energy facility siting process to expedite the review and action upon State and county permits necessary for the siting, development, construction and operation of a renewable energy facility of at least 200 megawatts of electricity. The concerns I have are, what is the renewable energy. And I would like to just note that when, if it's properly done, has the good EROEI and what that alphabet stands for is Energy Returned On Energy Invested. So wind is successful, biofuels are a loser and may just benefit certain well-leveraged players only in Brazil, and only in a very special set of circumstances will biofuels work and we do not share those circumstances. So to the effect that the siting is for a renewable energy facility that is wind or solar, I do support that.

"I also like the provision that prohibits the energy resources coordinator from accepting a permit plan application for a renewable energy facility prior to the acceptance of an environmental impact statement for the facility. That has it in the correct order. An EIS first, then we can accept the permit plan.

"The other thing that I think is positive is that this authorizes the Public Utilities Commission to establish guidelines and timetables for the creation and implementation of power purchase agreements for the purposes of assisting the renewable energy facility's siting process. That's been the fact that's been lacking. We need to get those power purchase agreements moving forward for renewable energy systems and not let the monopoly utility prevent those from moving forward.

"But again I say wind, solar, and of course ocean technology, those are excellent. I think we must be terribly careful not to go the biofuels way because we will then be using our land not for food to feed our people, but for fuel, and it won't be EROEI, the energy returned on the energy invested will be a loser in this. Thank you."

Representative Shimabukuro rose, stating:

"I'm sorry, Mr. Speaker. After hearing the comments can I change my no vote to an aye vote with reservations."

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

"Mr. Speaker I rise in support. I know it's increasingly become popular to be against biofuels. It's politically correct to speak against them. And as the previous speaker from Kailua mentioned, we are not the mainland, and we are not other places. I think that has to be taken seriously into consideration. Those of us who were here 10 years, 15 years ago know that we still have sugar land, we still have ag land. Mr. Speaker the reality is now, 60 percent of our land is growing weeds. And as the speaker from the other side of the aisle said last week, we're either going to grow houses or grow weeds unless we do something with the land. I would submit that if we don't put biofuels, the chances of more weeds and more houses increases exponentially the longer we wait. If biofuels are not good, well let's use them as a marker on our properties. Let the stuff grow and then when something better comes along, let us do it. But growing weeds and growing houses Mr. Speaker, is not the response and the answer for Hawaii. Thank you."

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support of C.C.R. 146, H.B. 2863, H.D. 2, S.D. 2, C.D. 1. This measure establishes a renewable energy facility siting process to expedite the review and action upon State and county permits necessary for the siting, development, construction, and operation of a renewable energy facility of at least 200 megawatts of electricity. This measure also establishes a Renewable Energy Facility Siting Special Fund and provides the Energy Resources Coordinator with the authority to establish and implement a consolidated application process to facilitate streamlined permitting of a renewable energy facility.

"This bill represents a set of the most important energy initiatives being taken up by the Legislature this Session. These measures recognize that for decades, permitting is one of the key barriers to the development of renewable energy projects in Hawaii.

"The United States Department of Energy consultants who are experienced in funding large energy projects have noted that Hawaii's reputation in the financial community as being among the most difficult states to get projects permitted in a timely and predictable fashion. This impedes significant capital investment in the State's drive to a renewable energy future, as expressed by the goal of 70% renewable energy for the Hawaii Clean Energy Initiative which is a critical step for Hawaii's energy future.

"Renewable energy companies are continuously working on obtaining the necessary permits for biodiesel production facilities and other energy resources in Hawaii, but have always been met with obstacles preventing them from obtaining the permits.

"Castle & Cooke has already initiated projects to reduce reliance on fossil fuels to transform Lanai into a showcase for renewable and green energy. However, their project is stymied as they are awaiting permit approval to create possibly the largest solar farm in Hawaii, supplying up to 10% of Lanai's annual electricity needs.

"Castle & Cooke is prepared to make close to \$1 billion for solar and wind energy projects and is committed to renewable energy, investing more than \$765 million to achieve this. Their goal is to make Lanai powered by 100% renewable energy, helping to stabilize energy costs and thereby stabilize the cost of living while providing new job opportunities for residents.

"Raising fuel costs must be addressed now; anything that can be done to help expedite the review and permitting process will ultimately benefit all the residents of this State.

"For these reasons, I am in strong support of this bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2863, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 147-08 and H.B. No. 2505, HD 2, SD 2, CD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2505, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 148-08 and H.B. No. 2507, HD 1, SD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 2507, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

Representative Finnegan's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong opposition of C.C.R. 148, S.B. 2507, H.D. 1, S.D. 2, C.D. 1. This measure supports the State policy to reduce greenhouse gas emissions by January 1, 2020, to levels at or below the estimates of greenhouse gas emissions for 1990, by appropriating \$140,000 from the General Fund to establish two positions to provide professional and technical support for the work of the Greenhouse Gas Emissions Reduction Task Force.

"This measure calls for an appropriation of \$140,000 from the general fund that is not included in the Supplemental Budget. In addition, the bill does not state what the background requirements are for the two specialized personnel, nor does it state that they must be independent of the companies that will be regulated.

"The questions that need to be answered prior to the passage of this bill are: should the two "specialized" personnel be specialists in one or more of the thirteen objectives mandated by the Legislature, or would it be better if they didn't know any of the thirteen objectives, but instead, know how to oversee complex projects? Should these two individuals be political appointments?

"For these reasons, I am opposed to this bill. Thank you Mr. Speaker."

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

Representative Belatti's written remarks are as follows:

"I rise in strong support of House Bill 2507, Conference Draft 1 which appropriates State funds to establish two positions to provide

professional and technical support to the Greenhouse Gas Emissions Reduction Task Force.

"If we are serious about meeting the goal of reducing greenhouse gas emissions by January 1, 2020, to levels at or below the estimates of emissions for 1990, we need to commit the resources to the Task Force to enable them to do their job. In the larger context of the entire State budget, the \$140,000 we invest today in staffing the Task Force will have large ripple effects and enable us to effectively address and reduce our impact on the environment."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2507, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GREENHOUSE GAS EMISSIONS REDUCTION," passed Final Reading by a vote of 47 ayes to 1 no, with Representative Finnegan voting no, and with Representatives Bertram, Nakasone and Sagum being excused.

Conf. Com. Rep. No. 150-08 and H.B. No. 2704, HD 2, SD 1, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 2704, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, in strong support. Mr. Speaker and Members, the purpose of this bill is to preserve and protect Ha'iku Valley, a site of cultural and natural significance, by establishing the Ha'iku Valley Cultural Preserve Commission to oversee the Ha'iku Valley Cultural Preserve.

"Mr. Speaker, during the legislative hearing, all those who testified on this measure indicated that Ha'iku Valley is an important cultural resource in Hawaii and that establishing the Ha'iku Valley Cultural Preserve Commission will greatly assist in its protection for future generations.

"Mr. Speaker I further learned that Ha'iku Valley is one of nine *ahupua'a* surrounding Kaneohe Bay. It served as a hospital for the *moku* of Ko'olaupoko. It was here that the *kahuna la'au lapa'au* lived and grew their medicinal herbs, which they mixed with plants from the sea to make medicine. People came from throughout the area to seek help from these Hawaiian healers. There are *na kupuna* living today, the *kupa'aina* to Ha'iku Valley, who still remember going into the upper reaches of the valley to collect herbs for medicines for their family, the *kahuna la'au lapa'au*.

"Mr. Speaker, many burials can be found today in Ha'iku Valley, as well as two major *heiau* and other lesser known sacred places. There are Hawaiian families today that still continue to visit and care for their family graveyards, including burials located at the Kane a me Kanaloa Heiau.

"Mr. Speaker, Ha'iku Valley also has a modern day historic significance as well. In the early 1940's the Navy chose this area to locate a top-secret radar station. In the 1950's, the area was converted to an omega transmission station. Due to its unique bowl-like sphere and shape, and high *pali* around it, the valley played an important role in the strategic communications during the war and decades after. The omega station was one of eight in the world that supported communications and coordinates among aircraft and ships at sea.

"Mr. Speaker, whether in ancient or modern times, Ha'iku Valley has always been for the good of the people. We need to preserve this valley to honor both its Hawaiian and modern-day historical significance. Mr. Speaker, for these reasons, I ask my colleagues to support this measure."

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

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

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

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

"Thank you Mr. Speaker I also am in strong support and would like the words of the Representative from Kaneohe entered into the Journal as if they were my own. And I would like to give special aloha to the advocates for this measure and to congratulate them. Aloha."

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

"Thank you, Mr. Speaker. In support and just a few comments. I'm excited about this bill because of the establishment of this Commission to preserve this natural resource. Like the rest of the islands, we have so many precious areas that need similar type of managing, but also sharing and preserving our culture. So Mr. Speaker, I am in strong support."

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

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

"Thank you, Mr. Speaker. I'm rising in support and would like to acknowledge those good people up in the gallery for their hard work. This *ahupua'a* is truly a treasure and a gorgeous place and it needs to be protected. 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. 2704, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HA'IKU VALLEY," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

At 11:04 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 3377, SD 2, CD 1
 H.B. No. 2531, HD 1, SD 2, CD 1
 H.B. No. 357, HD 2, SD 1, CD 1
 H.B. No. 2843, HD 2, SD 2, CD 1
 H.B. No. 3120, HD 2, SD 1, CD 1
 H.B. No. 3352, HD 2, SD 2, CD 1
 H.B. No. 2863, HD 2, SD 2, CD 1
 H.B. No. 2505, HD 2, SD 2, CD 1
 H.B. No. 2507, HD 1, SD 2, CD 1
 H.B. No. 2704, HD 2, SD 1, CD 1

At 11:04 o'clock a.m., Representative Caldwell requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:06 o'clock a.m.

Representative Thielen rose, stating:

"Mr. Speaker. I would like to make a brief correction. I did not vote against the greenhouse gas measure, and evidently it was a little unclear with the Clerk and Assistant Clerk."

The Chair responded:

"Representative Thielen, there was not mention of your name on that particular measure. I believe only Representative Finnegan voted no, and the vote has already been cast."

LATE INTRODUCTIONS

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

Representative Takai introduced cadets of the Hawaii National Guard Youth Challenge Academy, accompanied by Cadre Torres, Cadre Gascon, Cadre Johnson, Cadre Halemano and Commander Perez; and staff, Mr. Suzuki, Mr. Nishimura, Mr. Kaahanui, Mr. Barcial, Mrs. Nakagawa, Mr. Takiguchi, Mr. Janicki and Mr. Tuitieleapaga.

Representative McKelvey introduced Mr. Maurice Morita of the Hawaii State Teachers Association.

Representative Cabanilla introduced her brother-in-law, Mr. David Arakawa.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 165-08 and S.B. No. 2850, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 2850, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in support. On Wednesday, April 16, a possible sighting of a greenish brown tree snake at the Kaneohe Marine Corps Base was reported. During the search, and until today, unless it has been reported otherwise, no snake capture has been reported. This recent incident is only one of many that confirm we should provide all our efforts to prevent new invasive species from establishing in Hawaii.

"This measure establishes statutory provisions and appropriates funds for the Department of Agriculture's biosecurity program, funds for planning interim and permanent joint State and federal inspection facilities. Our State is incredibly dependent upon importation of consumer goods, nearly 90 percent.

"Our State's ongoing efforts of detection, control and containment, and eradication have been far from adequate. The State Department of Agriculture reported and has warned us that two species alone, and it may sound redundant, but the brown tree snake and the red fire ants could damage our lifestyle in excess of \$600 million per year, especially with the expected military build up in Guam, which means expanded services, air services between Guam and the Kaneohe Marine Air strip.

"Recently *Washington Post* staff writer Joel Achenbach wrote "biologists say that invasive species unchecked by natural predators are major threats to our biodiversity." Let us never even consider the brown tree snake as a welcome natural predator. Mr. Speaker, I ask this body's unwavering support for this measure. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2850, SD 2, HD 2,

CD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOSECURITY," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 166-08 and S.B. No. 156, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 156, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you Mr. Speaker, I will speak with reservations on this measure. It is Senate Bill 156, Relating to Voting. It allows a registered voter to request an absentee ballot permanently, forever. While I support efforts to encourage people to vote, we should be careful of creating a situation ripe for fraud.

"The measure before us will give the voters the ability to request absentee ballots only once, and henceforth a ballot will be mailed to him or her automatically every election unless the voter turns off the spigot. Under most circumstances and with 100 percent, honest voters, this would not pose a problem. However there are situations where an automatic mailing of an absentee ballot can result in someone other than the intended voter casting that ballot. People move. People go to college. People get senile. People die. People get apathetic. But the ballot may still show up in the mailbox.

"Some people, as we know, get excited by certain candidates and others are enthusiastic about elections. Some are motivated by political parties or particular issues. Permanent unrequested ballots could put temptation right into the hands of these voters. Although fraudulent voting may not occur often, we should take steps to protect the integrity of our voting system. Requiring that people request absentee ballots every election is not an unreasonable requirement to ensure the validity of our election results. So we must strike a balance between allowing all citizens to vote their opinion and ensuring the integrity of our voting system. Our current system maintains that balance. These are my serious reservations. Thank you."

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

"Mr. Speaker, I rise in opposition to this. Mr. Speaker the hallmark of America is do things faster, quicker, cheaper and more efficient, from Henry Ford to Bill Gates. We use technology to forward our society and the progress of our nation. However, I'm not sure that this use of absentee ballots forever and ever is going to benefit us.

"The responsibility of a voter to learn the issues, learn the process of the elections, whether they be issue oriented or personality oriented, that in itself is enough to do; to watch them wave signs on the highway. Is it too much to ask them to ask every year for an absentee ballot? Is it too much for them to wait in line? As my colleague indicated, I'm afraid that this is going to perpetuate the suffrage rights of the deceased. We're sending a message to the voter fraud in the community, if there is such a group out there in various elections, and there have been in the past. Look at the obituaries every year, find out who is deceased, get a relationship with those families, collect those names and there's nothing in this that safeguards this from happening. Mr. Speaker we need something in here that says that if the death rate in Hawaii declines over the passage of this bill, something you know is not right. Mr. Speaker this is well-intended, but I think it's going to have very unintended consequences to the negative. Thank you."

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

"Thank you, Mr. Speaker. I rise in strong support. I lived in a state where they had absentee ballots and I think it worked extremely well. I think it behooves us to try to be user-friendly with our voters and find ways to engage them in the process. I believe in this and I do disagree with some of the previous speaker's comments. Thank you."

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

"Thank you, Mr. Speaker. I stand with reservations. I ask that the words of the Representative from Hawaii Kai be entered as my own. When I have walked door to door in my neighborhood, it has been interesting to note that there have been people who haven't been there for a long time, and yet they're still on the record. I just wonder if there are the resources to ensure that there's accuracy and truth in the lists and voter registry. So I think we have to be careful. Thank you."

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

"Mr. Speaker I rise in support. I would just like to note for everyone, there's a lot of speculative concerns that have been raised, but I think the bill, if you read page 3, there are a number of safeguards listed. They're shown from lines 7 all the way through 20. Those safeguards will actually ensure that those concerns about people dying, or moving, or any of those other things are immediately taken care of. It's important to remember that voter fraud is a Class C felony. If somebody is tempted to conduct themselves in voter fraud they should always remember that it's a Class C felony, and that's a very, very serious offense. And that in and of itself to me, takes care of any of these very speculative and somewhat attenuated concerns that have been raised. Thank you."

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

"Thank you, very much. I am in strong support and would like the words of the Floor Leader inserted into the Journal as my own. In addition Mr. Speaker, the issue that we're really trying to attack here is voter apathy. There are a lot of citizens out there who are waiting for government to help them to get to the polls without having to go there, and that's through this measure. Even if we can just cut some of the time it takes to fill out this form, which is very complicated for a lot of people, I think it will help a lot of people participate in the process. Everybody that's out there who wants to vote, have questions like, 'How do I vote? How do I register? And where am I registered? How can I go to the polls when I don't have a ride?' There's a lot of excuses, but these are real excuses. These are hindrances or road blocks to the true democracy.

"There are a lot of families out there who would rather vote through the absentee process, but a lot of times you have a question of how to fill out the form. We have not developed a situation to ensure that those who don't speak English or are not able to read enough to understand the forms, or be confident enough to fill these out. It takes a deputized member of a campaign or deputized member of the community to go out to these homes to seek them out in order to help them. But this is almost impossible to do election, after election, after election.

"This measure now will allow them to permanently request it. They request for it once and then they will be permanently included on a list of those who would want absentee ballots every election. And as previously stated, there are safeguards against this and there are penalties for those who may wish to circumvent the law and try to cheat. We don't like cheaters and this Legislature last year ensured that those who cheat the system will incur the wrath of five years in jail for their work. Thank you Mr. Speaker for this moment to share my thoughts on this particular measure, and Members please, we need your support."

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

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

"Thank you, Mr. Speaker, in opposition. I heard very many times that this bill is for voter apathy and to make things easier for folks to vote. We have quite a simplistic process right now. The process in place for request of an absentee ballot is quite simple. If people need help, if they can do it once for a permanent absentee ballot, they can do it again. I don't see that there's anything wrong with that process in regard to wanting to vote and requesting a ballot.

"The greatest thing that we can do for voter apathy is get people involved. When I go door to door and I ask them if they're going to vote this year or that election year, not once have I heard it's too hard to fill out the application. Not once have I ever heard that they didn't know that there was an absentee process. Not once were they slow to say that, 'I don't know if I want to do an absentee process'. When they find out how to do it, they do it, and that's it.

"What I have heard is, 'Why should I believe in the political system in the first place? Why should I vote when it doesn't matter anyway? Why should I participate when I don't like what's going on?' Those are the kinds of things that we have to help with to get them to vote. Not these kinds of things. I don't think that this is going to matter much. If we want people to vote and we do our jobs and when we vote here on different issues that are issues that the people want to hear about, I think that's what's going to get them going to vote. So Mr. Speaker, I'm speaking in opposition to this. Thank you."

Representative Ward rose to respond, stating:

"Just to add a couple of things, and possibly a rebuttal in that, we forget that the sanctity of democracy is not just a secret ballot, but the security of the ballot. With this, perpetuity is the real issue. No one is against voter absentee ballots. It's evolved from where you literally had to be on vacation. You had to be in the hospital. It was very stringent 10 or 15 years ago. Now, whenever, whoever you are you get an absentee ballot automatically.

"But now, I think we're pushing it to the extent that this is in perpetuity. We want it to go forever and ever, and we're forgetting that security is part of the secret part of what is the watchdog of democracy. And if we want to throw security out of the window for the sake of some enthusiasm, I think as the previous speaker said, there's many more ways to do that.

"I should also remind the Members that the U.S. Supreme Court just ruled it is now constitutional to require a photo I.D. when people go to vote. We're going in the exact opposite direction. We don't require anything. As earlier stated if you are deceased and you have somebody who wants to get possession of that and vote, even though there are sanctions, of course there are sanctions. But for those things that we have no disincentives, we always encourage people to not leave their keys in the ignition, it's too tempting. What we're doing here is we're leaving a ballot on the table for anybody to turn it in without any identifying markers, without any checks and balances as to the security of that ballot. Again it's secretive, the security and the secret ballot is sacred. I think this time we're going overboard in our enthusiasm to try to drum up enthusiasm for people to vote. And we're the last in the nation."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 156, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTING," passed Final Reading by a vote of 45 ayes to 2 noes, with

Representatives Finnegan and Ward voting no, and with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 167-08 and S.B. No. 3174, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 3174, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker first I would ask if you would give a ruling on whether I have a conflict of interest. This bill originally had money in it for the self-help housing and I am the President of the Hawaii Self-Help Housing Corporation," and the Chair ruled "no conflict."

Representative Meyer continued in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I'm in support, but with reservations. This bill as it was first introduced was a bill by the Joint House Senate Majority Caucus relating to affordable housing. I initially supported it because it contained numerous provisions to help alleviate the lack of affordable housing. The final draft of this bill has stripped out most of those provisions and that's my reservation.

"First, the Conference Committee lined out language that would have extended by five years the sunset date of the increase in the conveyance tax allocation to the rental housing trust fund. I felt that was important to have left in there.

"Second, the Conference Committee deleted an appropriation to assist developers in contracting for third-party review and certification to expedite the permitting and building of affordable housing projects.

"Third, the Conference Committee thwarted the effectiveness of the self-help housing programs by removing language to establish a Self-help Housing Fund by not allowing funds to be expended out of the Self-help Housing Technical Assistance Fund. The self-help housing projects are very unique in that there's I think no way anybody could become a homeowner in such an affordable way because they get a loan oftentimes just for two or three percent. The loan pays for some supervision help and for the materials, but the families and their friends do all the sweat equity and that keeps the price down. So it's a wonderful program and I had hoped that they would get some funding in this.

"This bill did however increase the Hula Mae multi-family revenue bond and will help the affordable housing crunch being felt by some in our community. It is unfortunate that Senate Bill 3174 comes to us in Final Reading as a shell of what it started with. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support with reservations. Mr. Speaker, I have the same reservations as the previous speaker, but I think that in light of a shrinking economy, that we have to make hard choices and lest we be accused of not doing enough, I just hope that future legislators will consider these measures and that we revisit them again. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3174, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Final Reading by a vote of 47

ayes, with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 168-08 and S.B. No. 3252, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 3252, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

Representative Awana rose in support of the measure, stating:

"Mr. Speaker, I am in support of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3252, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," passed Final Reading by a vote of 46 ayes to 1 no, with Representative Hanohano voting no, and with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 169-08 and S.B. No. 644, SD 3, HD 3, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 644, SD 3, HD 3, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in support of this measure. Mr. Speaker, the environmental benefits of the solar water heating speaks for itself so I won't touch on that. Today I'd like to spend my time educating Members of this body and the public about the economic benefits of solar water heating and why, if at all possible, solar water heating should be installed at an accelerated pace, even before the mandate kicks in.

"In March 2008, Dr. Andy Walker of the National Renewable Energy Laboratory said the following about the cost-effectiveness of solar water heating in Hawaii, and I quote:

In the sunny parts of the islands, solar water heating can deliver heat at a levelized cost of 4 cents to 6 cents per kilowatt hour. In less sunny areas the range is 6 cents to 8 cents per kilowatt hour. Electric customers in Hawaii pay at least 15 cents per kilowatt hour, depending on utility and customer class. In conclusion, solar water heating is cost effective at any location in the Hawaiian Islands under current conditions. Simple payback periods range from 8.5 years to 4.3 years, again depending on utility and customer class.

"Dr. Walker's numbers were very conservative. In fact, our residential utility rates range from 25 cents per kilowatt hour on Oahu to 41 cents per kilowatt hour on Kauai, almost twice the 15 cents per kilowatt used in Dr. Walker's calculations. And just to give Members a perspective, the average rate nation wide is about 10 cents per kilowatt hour.

"Using our current residential utility which is in simple payback calculations, a solar water system on Kauai will be paid back in 2.8 years, Oahu 4.6 years, Molokai 3 years, Lanai 3 years, Maui 3.5 years and the Big Island 3.2 years. What this means is after 2.8 years, a family of four on Kauai will be putting approximately \$150 per month in their pockets from the savings in their electricity bill for the next 12.2 years, for a total savings of \$21,960. On Oahu that figure would be about \$90 per month for 10.5 years for a total of \$11,340.

"With crude oil prices rising from \$65 to over \$100 per barrel in less than one year, and with no relief under our direct control, this

body must consider requiring the installation of solar water heater systems in all new single-family dwellings constructed after December 31, 2009 to accelerate this kind of savings to our next generation of new homeowners. A solar water heater mandate in new home construction will effectively shift from a government subsidy via tax credits, to a required investment by the private sector that will result in greater public benefits for everyone at large through the prudent investment in this type of renewable energy saving device.

"A conventional electric water heater tank accounts for 30 to 35 percent of a home's electric bill. Again using this simple payback calculation I just mentioned, it is estimated that the savings from a home's electricity bill through the installation of solar hot water heater could result in the system being paid off in 2.8 to 4.6 years without a State tax credit. Furthermore, if the expense of the installation of a solar water heater is included in the mortgage of a new home, given the high and unpredictable costs of oil, the savings from the lowered electricity costs will exceed the additional monthly payments for the solar water heating system, which itself has an added benefit of being an allowable tax deductible expense, and also eligible for federal renewable energy tax credit."

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

Representative Morita continued, stating

"Thank you, Mr. Speaker. Again if you put a solar hot water heater in the mortgage, you have a tax deductible expense and it's eligible for a federal renewable energy tax credit and a utility rebate.

"Some may ask that if the savings are so great, why do we have to require a mandate. Just let the market work. Unfortunately in the construction of new homes and in promoting energy efficiency and conservation, the market is broken.

"In a study to catalog market and non-market barriers to energy efficiency adoption, Harvard economists Robert Stavins and Adam B. Jaffe described the market as a failure when a technology which is both cost-effective and saves energy is not implemented as a principal-agent problem. Jaffe and Stavins describe a situation between a landlord and a tenant where the potential adopter, the landlord is not the party that pays the energy bill. The study states, and I quote:

If the potential adopter is not the party that pays the energy bill, then good information in the hands of the potential adopter may not be sufficient for optimal diffusion. Adoption will only occur if the adopter can recover the investment from the party that enjoys the energy savings. Thus, if it is difficult for the possessor of information to convey it credibly to the party that benefits from reduced energy use, a principle/agent problem arises.

"This case study can also be applied to the relationship between a developer and purchaser of a new home where the developer may be overly concerned about the overall price of building a new home and will install the cheapest appliance and electric water heater to keep the upfront cost low, with no regard to the operational cost of the system, which will be paid by the new home buyer.

"Mr. Speaker, I've distributed to the Members a chart comparing the cost of various water heater systems on each island. I think this chart clearly points out our need to act and currently only one in four homes have a solar water heater and we owe it to future generations of home owners, and energy and money saving devices, to put more disposable income into the pockets. Mr. Speaker we owe it to our children and grandchildren, the promise of a clean, renewable and sustainable energy future. Your favorable vote on this measure keeps us on this smart path. Thank you."

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

"Mr. Speaker I rise in support. Mr. Speaker this is a good bill, it's about time. It's in response to the wake up call that our colleague in Maui is incorrect saying \$200 a barrel, it's frightening. Is it \$225 a barrel? You might as well say \$300.

"Mr. Speaker this is a wake up call, it's also a response to I think our patience over the last 20 years. We left it optional with incentives, and we only got 17 percent usage. I don't think it's 25 percent. There aren't that many houses that are using our resources so this is a response. Nobody likes mandatory, but there's no option if we're really going to fight the battle with fossil fuel.

"Mr. Speaker there is however an omission in this bill that I think can make it better because if Members have the bill, if they look on page 7, line 10, it says if you can't meet the solar mandate in a house, you can have a demand water heater. And what is in there says only a gas demand water heater. Mr. Speaker my office did some research on this. A demand water heater with gas is \$1,200. If you get an electric water heater on demand, it's only \$500. But this bill does not leave that option.

"Now I brought it up to the Conference Committee, to the Chair. I told them I bathed everyday in East Timor in the Peace Corps with the demand water heater. It was electric. I was clean enough to work. The British empire has it all over the world, but for some reason it's not in this bill. It doubles the cost of the retrofitting because not only is it \$1,200 if you have a tank, but if you have to run a gas pipe, and if you don't have a pipe on your street you don't get it. But if you have the pipe it's going to be even more expensive.

"I spoke earlier on the Floor that the cost of living is going up. This bill, which is intended to lower the cost of energy, by the emission of the electrical water heater is actually going to have it go up. So I will recommend for those who are going to be here next year, make sure you put that in there, because it will save money for the people of Hawaii. Thank you."

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

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

"Thank you, Mr. Speaker. I'm rising in support with a lot of strong reservations. I mean, the support is that I think it's a good thing that we have more solar water heaters out there, but I have a real problem with the mandate. Everyone wants more solar, but I think that this bill is flawed. It eliminates the tax credits and utility rebates for the mandated systems, nearly doubling the system cost to the home buyer. This is simply not fair to the home buyers. My colleague from Hawaii Kai talked about our patience; we left it optional. But what we had was a tax credit to encourage people, an incentive. Now we've flipped totally the other way, and it's a mandate. You have no choice. You must have it, and it will cost you twice as much as it would today.

"Why does it cost more? Well, today if you contract to have solar put on your roof, the average cost is about \$5,000. Through the electric company you get a rate payer rebate of \$1,000, bringing it down to \$4,000, and then a State tax credit of 35% eliminates another \$1,400, for a net cost of \$2,600. And over the 15 years of savings that you will have on your electric bill, that amounts to about \$11,250 that you have saved over a 15 year period because you were smart enough to put solar in.

"Now if you look at what happens with the mandated system, using the same average figure of \$5,000, but you get no rate payer rebate, and you don't get a tax credit, so the cost to you which will be added on to your mortgage is \$5,000 instead of \$2,600. And you won't have a choice about that. If you want to buy a new house after December 31 of 2009, you simply repay almost double.

"But when you have a 30 year mortgage and you've added this \$5,000 for that solar system, the mortgage interest at 6% for 30 years, you will have paid an additional \$5,897 dollars in interest on that solar system. So the total system with the interest and the \$5000 for the system is \$10,897 for the savings that you got from lower electric bills of \$11,250 over 15 years, your net savings will be \$353 while the person that put it in an optional way this year, they will have had a savings of \$8,650.

"Mandates come down from government. We have a habit of saying 'We know what is best for you. Public, you just don't understand. We have all the answers.' Well, we thought we had all the answers with ethanol. And now we see the cost of food going through the roof. Food riots in Third World countries. And even Congress people in Washington, DC talking about putting a moratorium on ethanol. And this was about 10 years ago, 15 years ago, there was no argument about this. Government knew what was best for the people. We had to stop using oil and we had to get ethanol in there to reduce the amount of oil products that we used in our automobiles.

"Mr. Speaker, our great country of the United States of America was founded on the principles of freedom and liberty. That means we have the freedom to make choices for ourselves. And as government gets bigger and more intrusive, more and more these dictates are coming down to the people saying 'You have no choice anymore. You must do what we think is politically correct. We know better than you.' Thank you, Mr. Speaker."

At this time, the Chair announced:

"Thank you very much. Members of the House, with your indulgence, can we recess at this point in time and reconvene at 1:00 o'clock so that we may go over to the Senate to do the confirmation of our three Executive Directors of our Legislative Agencies. The three Directors that are being nominated and confirmed by all of you will be Mr. Ken Takayama of the Legislative Reference Bureau, Mr. Robin Matsunaga of the Ombudsman's Office, and Ms. Marion Higa of the Legislative Auditor's Office. So with your indulgence, we will recess."

Representative Ward rose, stating:

"Mr. Speaker, will this measure still be open for comment? Thank you very much."

The Chair responded, stating:

"Yes, the Chair will continue on, but I'm just stating for the record that we have to leave at 11:45 to start the Joint Session at 12:00. So we'll reconvene at 1:00 o'clock."

At 11:45 o'clock a.m., the Chair declared a recess and the House of Representatives stood in recess, subject to the call of the Chair, and in accordance with Senate Concurrent Resolution No. 236, met in Joint Session with the Senate, for the purpose of appointing the Auditor, the Director of the Legislative Reference Bureau, and the Ombudsman.

JOINT SESSION

The Joint Session of the Senate and the House of Representatives, Twenty-Fourth Legislature of the State of Hawaii was called to order at 12:00 noon by the Honorable Colleen Hanabusa, President of the Senate.

Senator Hooser moved that Ms. Carol Taniguchi be appointed Clerk of the Joint Session, seconded by Representative Caldwell and carried, with Representatives Bertram, Nakasone and Sagum being excused.

President Hanabusa then announced that the purpose of the Joint Session was to appoint the Auditor for the State of Hawaii pursuant to Section 10, Article VII of the Hawaii State Constitution; the Director of the Legislative Reference Bureau pursuant to Section 23G-1, Hawaii Revised Statutes; and the Ombudsman pursuant to Section 96-2, Hawaii Revised Statutes.

Senator Hooser nominated Ms. Marion Higa to the Office of the Auditor of the State of Hawaii, for a term of eight years, commencing July 1, 2008.

Representative Caldwell moved that the nominations for the Office of the Auditor of the State of Hawaii be closed, seconded by Senator Hemmings and carried, with Representatives Bertram, Nakasone and Sagum being excused.

Senator Hooser then moved that the Senate of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Marion Higa as Auditor for the State of Hawaii for a term of eight years commencing on July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition of the nomination, stating:

"Thank you, Madame President. I rise in opposition for this reappointment. Thank you. Colleagues, I think that a reappointment deserves closer attention than an initial appointment. I think that a reappointment deserves a public hearing where the private sector, former employees, current employees can weigh in, where the success and failure of the State Auditor can be evaluated dispassionately. And that there can be a conclusion of that public hearing, and recommendations be made to both the House and the Senate.

"Next, I think that before we're asked to vote, we should have been given some kind of criteria on how the Auditor should be evaluated in terms of the Auditor's performance.

"And finally, we should have been furnished with copies of past job performance ratings or approvals. I'm sure you do this on an annual basis, but at least these reviews which are done for every other position in State government should be furnished to the members before we're asked to vote. Thank you."

Senator Hooser rose to speak in support of the nomination, stating:

"I rise in strong support of the appointment of Marion Higa as the State Auditor. Marion Higa has a long and illustrious career of working in the State Office of the Auditor since 1991. I believe her record speaks for itself. Year after year, she has taken extreme care, her and her staff auditing various programs, accounts and the performance of agencies. The public, year after year has had the opportunity to inspect her work, to comment on her work. And I just believe she's doing a 'bang up' job. And I'm really, truly enthusiastic and it gives me great pleasure to recommend to members to vote in support."

Senator Trimble rose to respond, stating:

"Thank you Madame President. I rise in brief rebuttal. I hear different things than the good Senator from Kauai. I hear that the audits, the management audits are frequently one-sided, only negatives are provided. I hear that conclusions are rewritten at the final moment. And the people making these complaints assume that these conclusions are rewritten right before the audit is furnished to grab headlines, to grab publicity.

"Next I hear that there has been extensive personnel turnover in the Office of the Auditor. And so what I originally asked for was, what criteria do we have to analyze and to evaluate. Where are the annual performance evaluations? I guess none was done. Without that, how can we decide at the end of eight years whether an appointment is merited or not?"

"And there was no public hearing process where members of the public, past employees were invited to come down and weigh in on the reappointment. The process is flawed."

Senator Baker rose to speak in support of the nomination, stating:

"Madame President, thank you. I rise in support of this nominee. Madame President, since Marion Higa has been Auditor of the State of Hawaii, her office has received numerous accolades from national accrediting organizations, from the National Conference of State Legislatures, Audit Operation. As a matter of fact there have been a number of states that have come to observe the procedures and policies that our Office of the Auditor has undertaken because she's done such an exemplary job. I think Madame President, the work that she's done, the outstanding performances that she has, recognition that her office received, and that her audits received, are testament to the fact that she's worth all of the votes that Members of this body can provide. Thank you, Madame President."

The motion on behalf of the Senate was put to vote by the Chair and carried by a vote of 25 ayes.

Speaker Calvin K.Y. Say then assumed the rostrum.

Representative Caldwell moved that the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Marion Higa as Auditor for the State of Hawaii for a term of eight years commencing on July 1, 2008, seconded by Representative Finnegan.

Representative Caldwell rose to speak in support of the nomination, stating:

"Mr. Speaker, I rise to speak in support of the confirmation of Marion Higa as the State Auditor by the State House of Representatives. Thank you, Mr. Speaker. There's not a person in this Chamber who isn't familiar with Marion Higa and her tenacity, fairness and passion for accountability. With 37 years, 37 years of service in the Office of the Auditor, she exemplifies everything that that Office stands for, Mr. Speaker. She's a guardian of public trust. She fights for the continuous improvement of government, and she's a standard bearer for excellence.

"In addition, Mr. Speaker, she is a resident of Manoa and one of my constituents, and I just hope and pray she never audits me. So I hope we all join in and support in confirming Marion Higa again as our Legislative Auditor. Thank you."

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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising with very serious reservations. I would like to adopt first of all the words of the Senator from Waikiki as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Thielen continued, stating:

"Mr. Speaker, I can't help but contrast this appointment with the way that appointees from the Governor to head departments of the State are treated by the Senate. They go first of all to a Senate Committee where the appointee is thoroughly grilled. Where the public has the opportunity to weigh in and present their thoughts on that appointment. Then the person comes before the entire body of the Senate and there is further debate and discussion with, of course, the public weighing in to individual Senators on that appointment.

"On this one, what I'm concerned about is the perception to the public is that this is a 'rubber stamp' vote. And I don't think it's in the best interest of government. I think there should have been hearings. I think people should have been able to weigh in. And unfortunately today, that's not the case."

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

"Mr. Speaker, I rise in support with slight reservations. I think the good Senator from Waikiki has a point about the process. I'm not going to speak to the merits of the individual, but the process. The public deserves scrutiny. The public deserves disclosure. The public deserves a chance to weigh in on the decision. Mr. Speaker, that is absent in the same way that when we reformed in the House, the GIA process, we were not saying that you gave the money to the wrong people. It's the process of how we gave out GIAs, a one man committee. We need more openness. We need more disclosure. And I think that's the point that needs to be emphasized so the next time if she wants to go another eight years, by then we will have reformed the process and we will be a hundred percent sure on both sides of the aisle, that she is the one for another eight years. Thank you."

The motion on behalf of the House of Representatives was put to vote by the Chair and carried by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

With the votes having so been cast by the members of the Twenty-Fourth Legislature of the State of Hawaii, Ms. Marion Higa was appointed and confirmed as the Auditor for the State of Hawaii.

Representative Caldwell then introduced Ms. Higa's family seated with her in the gallery: her son Jason, and her brother Mr. Nathan Murakami; as well as the staff of the Office of the Auditor.

At this time, President Colleen Hanabusa assumed the rostrum.

Senator Hooser then nominated Mr. Ken Takayama to the Office of Director of the Legislative Reference Bureau of the State of Hawaii, for a term of six years, commencing July 1, 2008.

Representative Caldwell then move that the nominations for the Office of Director of the Legislative Reference Bureau of the State of Hawaii be closed, seconded by Senator Hemmings and carried, with Representatives Bertram, Nakasone and Sagum being excused.

Senator Hooser moved that the Senate of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Ken Takayama as Director of the Legislative Reference Bureau for the State of Hawaii for a term of six years commencing on July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition of the nomination, stating:

"Thank you, Madame President. I stand in opposition because of the process, because there was no public hearing. The public was not given an opportunity to weigh in. We were not furnished with annual evaluations of performance and we were not told the criteria by which this person should be judged. Thank you."

Senator Hooser rose to speak in support of the nomination, stating:

"I rise in support of the appointment. Madame President, I urge my colleagues to support Mr. Takayama. The Legislative Reference Bureau is a nonpartisan legislative service agency. It provides a wide variety of services to legislators and legislative Committees. The people that are voting today on this appointment are the people who use these services on a regular basis. And those are the people who really, really need to engage on this issue and that's why we're here today.

"Mr. Takayama has been an employee with the Legislative Reference Bureau since 1979. He's done solid work with the Bureau. And it gives me great pleasure to recommend his approval. Thank you, Madame President."

Senator Hemmings rose to speak in support of the nomination, stating:

"Thank you, Madame President. I rise to speak in favor of the nomination. Thank you, Madame President. Speaking from this side of the aisle, it's my pleasure to endorse Ken for this position. It's been my experience that the gentleman serves us with blinders on to political affiliation. He's been extremely fair in dealing with the Minority in the Legislature which is sometimes not always true in other situations. And for that we are grateful and I wholeheartedly support his nomination for second term."

The motion on behalf of the Senate was put to vote by the Chair and carried by a vote of 25 ayes.

Speaker Calvin K.Y. Say then assumed the rostrum.

Representative Caldwell moved that the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Ken Takayama as Director of the Legislative Reference Bureau for the State of Hawaii for a term of six years commencing on July 1, 2008, seconded by Representative Finnegan.

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

"I rise in support of Mr. Takayama for his long suffering as Acting Director, and commend him for now being fully, Mr. Director. Thank you, Mr. Speaker."

Representative Caldwell rose to speak in support of the nomination, stating:

"Mr. Speaker, I rise to speak in favor of the confirmation of Ken Takayama as Director of the Legislative Reference Bureau. Ken has an admirable record Mr. Speaker, in public service. Stemming from his early years as a VISTA volunteer for the Legal Aid Society of Hawaii. In his many years in the US Judge Advocates General's Corps. We have all been impressed with the team Ken has assembled and managed over at the Legislative Reference Bureau.

"We depend on the Bureau to study and analyze government and to help us construct laws that will make government an effective servant of the public. In this regard, Ken has exceeded beyond all expectations. We look forward to a continued product of excellence from the LRB under the steady hand of Ken Takayama."

The motion on behalf of the House of Representatives was put to vote by the Chair and carried by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

With the votes having so been cast by the members of the Twenty-Fourth Legislature of the State of Hawaii, Mr. Ken Takayama was appointed and confirmed as the Director of the Legislative Reference Bureau for the State of Hawaii.

Representative Caldwell then introduced Mr. Takayama's wife, Ms. Diane Kishimoto who was seated with him in the gallery; as well as the staff of the Legislative Reference Bureau.

At this time, President Colleen Hanabusa assumed the rostrum.

Senator Hooser then nominated Mr. Robin Matsunaga to the Office of Ombudsman of the State of Hawaii, for a term of six years, commencing July 1, 2008.

Representative Caldwell moved that the nominations for the Office of Ombudsman of the State of Hawaii be closed, seconded by Senator Hemmings and carried, with Representatives Bertram, Nakasone and Sagum being excused.

Senator Hooser moved that the Senate of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Robin Matsunaga as Ombudsman for the State of Hawaii for a term of six years commencing on July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition of the nomination, stating:

"Thank you, Madame President. For the third time today I rise to speak against the reappointment for the reasons that I've stated earlier, it's the process. We're not talking about the individual. It's the process that needs to be corrected. Thank you."

Senator Hooser rose to speak in support of the nomination, stating:

"I rise in support. It gives me again, great pleasure to support another fine individual, Mr. Robin K. Matsunaga to the Office of the Ombudsman. This office probably is the most underappreciated, and no doubt one of the most stressful offices we have around here. It deals with investigating complaints against government agencies, to take calls from frustrated residents and constituents. They do a great job dealing with them, helping them navigate the bureaucracy and settle their problems.

"Mr. Matsunaga was first appointed in 1998. There's a 10 year record. Again, it gives me great pleasure to offer my support and encourage the Members to vote in the affirmative."

The motion on behalf of the Senate was put to vote by the Chair and carried by a vote of 25 ayes.

Speaker Calvin K.Y. Say then assumed the rostrum.

Representative Caldwell moved that the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii confirm the appointment of Robin Matsunaga as Ombudsman for the State of Hawaii for a term of six years commencing on July 1, 2008, seconded by Representative Finnegan.

Representative Caldwell rose to speak in support of the nomination, stating:

"Mr. Speaker I rise to speak in favor of the confirmation of Robin Matsunaga as the Ombudsman for the State of Hawaii. Mr. Speaker, this is a role that requires deep knowledge of how State government works, and a deep understanding of basic problem solving. Robin knows this in spades. He brings those assets with him to work everyday along with his own set of people-skills which helps him understand the needs of the public we all serve.

"It does not hurt Robin's candidacy, Mr. Speaker, that he has served many years in the House of Representatives, both as Chief of Staff for the Speaker of the House, and as Committee Clerk for the Finance Committee, both under Speaker Emeritus Joe Souki. And you can't get better training than working under Speaker Emeritus Joe Souki. We all know that.

"Historically, Robin is the third appointed Ombudsman for this office which was established in 1969 as the first classical ombudsman office in the United States. We all know Robin will continue to carry on the great tradition of the office and I ask all the Members of this body to endorse his appointment. Thank you."

The Chair then stated:

"Representative Souki, would you like to insert written comments in support also? No?"

The motion on behalf of the House of Representatives was put to vote by the Chair and carried by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sagum being excused.

With the votes having so been cast by the members of the Twenty-Fourth Legislature of the State of Hawaii, Mr. Robin Matsunaga was appointed and confirmed as the Ombudsman for the State of Hawaii.

Representative Caldwell then introduced members of Mr. Matsunaga's family seated with him in the gallery: his wife, Tammy; daughter, Alexis; mother, Mrs. Nancy Matsunaga; brother and sister-in-law, Mr. Stewart Matsunaga and Mrs. Faye Matsunaga; and father and mother-in-law, Mr. Mikio and Mrs. Jean Fujino; as well of the staff of the Office of the Ombudsman.

At 12:24 o'clock p.m., the Speaker of the House declared the Joint Session of the Senate and the House of Representatives adjourned. (Representatives Bertram, Nakasone and Sagum were excused.)

RECONVENE

At 1:14 o'clock p.m., the House of Representatives reconvened with the Speaker presiding.

At this time, the Chair announced:

"Members, at this time we are on page 3. Before we recessed, we were on Conference Committee Report no. 169 and the Chair will allow continued debate on it.

"But before we go ahead with the continued debate on S.B. No. 644, SD 3, HD 3, CD 1, the Chair would like to make a late introduction. In the gallery we have this beautiful young lady who is the wife of Chair and Representative Dwight Takamine. Carol would you please stand to be recognized. So at this time the Chair will allow the debate to continue."

UNFINISHED BUSINESS

Conf. Com. Rep. No. 169-08 and S.B. No. 644, SD 3, HD 3, CD 1 (continued):

Representative Ward rose to respond, stating:

"Mr. Speaker, I had risen to rebut. In support in the sense however that a rebuttal delayed is a rebuttal denied or lost. The train of thought was that the good Representative from Kahaluu was saying that you're going to double the cost if we actually mandate this solar. But in my calculations, it's the difference between a wholesale price and a retail price. When you pay retail, you have to realize the wholesaler, if its particular things like clothing, they have 100% markup, etc. So if the installation of the solar device is by the developer, than you have all the stick houses there with easy access, quick wholesale materials. The price should not be quoted as the retail price of \$5,000 as the good Representative had quoted. Therefore there should not be that much distance between doing it pre-fab in the new houses, versus having the installation price. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, in support and I just wanted to explain my vote along the way. Previously Mr. Speaker, on Third Reading of this bill I voted against it, and basically I wanted to see a more aggressive approach, I wanted to see like photovoltaic. I think that's worth a mandate. But after going through some of these numbers, I will just go ahead and support this bill as it states, and hopefully in the future when that technology of photovoltaic becomes a little bit more affordable for developments and for housing, we can look more towards that, a more comprehensive, more than just water-heating type of approach. Thank you."

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

"Thank you Mr. Speaker, in strong support. I just have three brief points to make. I am told that at the last review of the tax credit that the two previous speakers ago was mentioning, that at the last review of this tax credit a barrel of oil cost \$23. We are now facing a price of \$123, so there clearly is a reason to mandate solar water heaters.

"Secondly, to understand the individual cost savings, and I think the Representative from Hanalei would be better able to explain this, but we must look at the cost of the life cycle of an electric water heater versus a solar thermal water heater to really understand the cost savings that will be realized by individual home owners."

"Finally, I just want to share with you, yesterday at a community meeting at which the Representative of Hanalei was present, she spoke to us, to my community, and explained the solar water heating bill, and a person in the community asked 'Why is it that government is taking so long?' and the response by the Representative from Hanalei was that it's about political will, and political will to make tough decisions and execute and follow a path that has, I think, been established by the Committee of Energy & Environmental Protection by our State.

"This is one part of that pathway, this is a way that we can demonstrate our political will and commitment to change and to improve our community and make sure that there are resources for future generations. So I stand in strong support with this measure and I commend the Chair and the Vice Chair of Energy & Environmental Protection Committee who saw this one through. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, in strong support. I think that it is high time that we invest in and make sure that our residents are utilizing solar because truly for the future generations this is necessary. It's been around a long time and it makes such logical sense in the State of Hawaii, so I ask that the words of the Representative of Hanalei please be entered as my own as well as the words of the Representative of Makiki," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, brief comments in support. I think it's the first time I've seen this Chamber both Minority and Majority support a bill such as this. I think it's an excellent bill. And Mr. Speaker it ties nicely into the other bills we're moving forward on ag to energy, important ag lands, and many other measures, conservation, putting lands into conservation, and when you look at it all together it makes a great package. Thank you very much, Mr. Speaker."

Representative Morita rose to respond, stating:

"Thank you Mr. Speaker, again in support. I just wanted to make some clarifications. The Representative from Kahaluu cited some figures, and a lot of the information came from an email that was sent to all Members from people from the solar industry association. And in that email they had a comparison of the present way the system works and the mandate. That's an inaccurate comparison; the real comparison should be the chart that I gave you, the costs of an electric water heater versus the cost of solar. Because it's more than likely that once you put that electric water heater in, only one in four households would then convert to a solar water heater later. So 75% of the new homes that will be built will not have the advantages of solar water heating at all.

"So again look at that very carefully because a real comparison is electric water heaters versus solar water heaters, not how you pay for it, whether it's the present system with the tax credit or the mandate.

Thank you very much. Mr. Speaker may I also add additional comments," and the Chair "so ordered."

Representative Morita's written remarks are as follows:

"Mr. Speaker, I would like to insert the following items into the Journal:

1. A Chart comparing the life cycle costs of various water heating devices
2. An opinion-editorial supporting Senate Bill 644 by Jeff Mikulina and Henk Rogers

"Water Heater Life Cycle Cost Comparison

	kWh rate	Gas Water Heater Life Cycle Cost	Heat Pump Water Heater Life Cycle Cost	Electric Water Heater Life Cycle Cost	Solar Thermal Water Heater Life Cycle Cost
Kauai	.412	16,202	19,632	40,774	9,961
Oahu	.250	16,807	14,511	25,158	8,425
Molokai	.380	15,395	18,672	37,638	9,673
Lanai	.375	17,378	18,352	36,678	9,577
Maui	.330	14,757	17,072	32,838	9,193
Hawaii	.366	17,378	18,032	35,718	9,481

Assumptions:

- Single Family Home 1
- Occupants Per Unit 4
- No. of Water Heaters 1
- Gallons Per Day Per Person 10.5
- Cold Water Temperature 70
- Hot Water Temperature 130
- Real Discount Rate 3%
- Gas & electric water heaters are replaced every 12 years
- Heat pump portion of a heat pump water heater (70% of initial cost) replaced every 7 years
- Tank portion of a heat pump water heater (30% of initial cost) replaced every 15 years
- Tank portion of a solar water heater (20% of initial cost) replaced every 15 years
- Solar water heater costs does not reflect utility rebate or federal tax credits

In presenting a talk this past March about the cost-effectiveness of solar water heating in Hawaii, Dr. Andy Walker of the National Renewable Energy Laboratory said the following:

In sunny parts of the islands, solar water heating can deliver heat at a levelized cost of \$.04 to \$.06 per kWh. In less sunny areas the range is \$.06 to .08 per kWh. Electric customers in Hawaii pay at least \$.15 per kWh, depending on utility and customer class.

In conclusion, solar water heating is cost effective at any location in the Hawaiian Islands under current conditions. Simple payback periods range from 8.5 years to 4.3 years, again depending on utility and customer class.

Present residential utility rates range from \$.25 per kWh on Oahu to \$.41 per kWh on Kauai, thereby making the simple payback for solar water heaters much faster than what Dr. Walker anticipated in his talk."

"The Honolulu Advertiser
May 1, 2008

Solar bill would move us closer to clean energy future

If our roofs could put the sun to work, we'd reduce need for oil
By Jeffrey Mikulina and Henk Rogers

Legend has it the demigod Maui used his fishing net to capture the sun over Haleakala so his mother could dry her tapa cloth. Today the Legislature has a chance to take a lesson from Maui and require new homes statewide to capture the sun to heat water.

The solar roofs bill (SB 644) would greatly increase the efficiency and affordability of new homes built in Hawai'i, moving us closer to a clean energy future.

At 22 degrees latitude, we are blessed with ample sunshine year-round in the Islands. Hawai'i is the Saudi Arabia of sun. On average, each home receives the energy equivalent of 15 gallons of gasoline in the form of pure sunlight on its roof each day.

We all should be putting that sun to work, heating our water and powering our homes. Solar water heating has been a tremendous success story for decades in Hawai'i, reducing the cost of living for homeowners and decreasing the need for fossil fuels. But the sad fact is just over one in five homes in Hawai'i take advantage of this decidedly low-tech energy solution.

Solar water heaters are among the most effective means of reducing the high electricity cost burden that residents now endure. The solar roofs bill will make the cost of living more affordable by slashing the electric utility bill of an average new home by 30 to 40 percent.

It's a boon to the state economy as well, helping to create clean "green collar" jobs locally and reduce the amount of money that leaves the state's economy to buy crude — often from countries who don't share our values.

While bold, the solar roofs measure is not without precedent. Israel has mandated that all new homes in the country come equipped with solar water heaters and now they are standard on some 95 percent of homes. Since January 2007, Spain has required solar water heaters on all new residential construction. Here in Hawai'i, the Navy has been building all of its new residential units with solar thermal.

New homes, of course, are only part of the picture — hundreds of thousands of existing housing units in Hawai'i need to be retrofitted with solar water heaters as well. That's why we want to make sure the 35 percent tax credit is continued (or increased) for existing homes. Since new homes won't be drawing on these solar retrofit incentive funds allocated by the Legislature, more should be available for retrofits.

As with most legislation, the final draft of the measure is a compromise. The measure contains reasonable exceptions to the solar requirement to address some of the concerns from developers and the Gas Company. A waiver can be granted if there is poor solar resource or if a solar water heater will be more costly than an electric heater over time.

If a new home uses an efficient on-demand gas heater and one other gas appliance, such as a gas stove, they can request a waiver from solar (although gas lines are rarely installed in new subdivisions). For the solar industry, this bill contains provisions to codify — in law — standards and quality-assurance criteria that will now govern solar water heater systems statewide. All in all, the solar roofs bill is smart policy, sensibly crafted to smooth a transition toward zero-energy homes of the future.

Rarely does the Legislature have the opportunity to forward a policy that addresses so many needs at once: the need for reduced carbon emissions, the need to reduce the cost of home ownership and the need for good local jobs in the clean energy field.

By following Maui's lead, we can capture the sun and put it to work reducing our dependence on oil. Senate Bill 644 is a solid step toward our preferred clean energy future. We encourage its passage.

Jeffrey Mikulina is director of the Sierra Club, Hawaii Chapter, and Henk Rogers is the founder of Blue Planet Foundation. They wrote this commentary for The Advertiser."

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

"Thank you, Mr. Speaker. I rise in support of this. At this particular moment, I'm really excited to be able to say to my constituency that our Legislature is taking bold steps forward. I hope that the Building Trades Association, Retail Merchants will impel us to make similar legislation next year with regards to businesses and large facilities.

"As a new motorcycle rider myself, I'm impressed with Harley-Davidson's foresight and especially the storage facility in Hawaii Kai that, to their own expense, is using an air conditioning system based on renewable sources. So I appreciate this and I look forward to more advanced and progressive legislation next year."

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

"Thank you very much Mr. Speaker, in support. Your Committee on Economic Development & Business Concerns was the second Committee to hear this measure, and when we looked at this, we had concerns as to what was the cost to the community and what were we going to add to the cost of living to the community.

"Mr. Speaker, we have always said that protecting the environment is very important, but it's how we get there. This measure is a good example of how we can get there and be cost effective. I'd also like to insert written comments on this measure," and the Chair "so ordered."

Representative Yamashita's written remarks are as follows:

"Mr. Speaker, I rise in strong support of SB644, CCR169.

"The purpose of this measure is to require the installation of solar energy or comparable renewable energy devices to heat water in the construction of every new residential single-family residence after January 1, 2010.

"Crude oil prices continue to rise with no relief under the State's direct control in sight and our dependence on fossil fuel imports jeopardizes the viability of our state's economy and our environment.

"This measure is a critical step in securing Hawaii's energy future and reducing our contribution to global climate change. It will lessen our dependence on fossil fuels, protect our environment and bring great cost savings for homeowners by lessening electricity expenses."

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 Committee was adopted and S.B. No. 644, SD 3, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 170-08 and S.B. No. 871, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 871, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. On Conference Committee Report 170, Relating to Food Waste Recycling, this is for the pilot program for one or more schools to come up with a program to recycle food waste at the school. In Committee, the Department of Education was not in favor of it. There's \$25,000 of general fund money and the DOE will have to work with the Department of Health, and it appears to me we have two kind of unwilling departments that have to do this, and I think we should wait until we have some consensus and agreement that everybody would like to try that. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 871, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD WASTE RECYCLING," passed Final Reading by a vote of 45 ayes to 2 noes, with Representatives Meyer and Pine voting no, and with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

Conf. Com. Rep. No. 171-08 and S.B. No. 2082, SD 2, HD 1, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 2082, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I am in support of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2082, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Final Reading by a vote of 47 ayes and, with Representatives Bertram, Nakasone, Sagum and Sonson being excused.

At 1:26 o'clock a.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2850, SD 2, HD 2, CD 1
 S.B. No. 156, SD 2, HD 2, CD 1
 S.B. No. 3174, SD 2, HD 2, CD 1
 S.B. No. 3252, SD 2, HD 2, CD 1
 S.B. No. 644, SD 3, HD 3, CD 1
 S.B. No. 871, SD 2, HD 2, CD 1
 S.B. No. 2082, SD 2, HD 1, CD 1

Conf. Com. Rep. No. 172-08 and S.B. No. 1804, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 1804, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in support for Conference Committee Report 172-08. This measure is to establish additional funding mechanisms to enhance the availability of revenues in the Trauma System Special Fund to ensure the availability of care for our trauma patients in the State. The additional funding mechanism to the Trauma System Special Fund will come by way of a trauma surcharge on penalties for various offenses such as speeding and vehicle accidents involving death or bodily injury. A nexus does exist for the trauma surcharge, as over 50% of our trauma patients

have evidence of alcohol or drugs. This relates to the Trauma Fund, as money collected for such violations will help to ensure such patients have adequate trauma care. Such a funding mechanism will ensure the continued viability of a trauma center statewide.

"In fact Mr. Speaker, in January 2006, the Legislative Reference Bureau published a report on our crisis and trauma care entitled, 'On-Call Crisis in Trauma Care: Government Responses' and if I may quote, the report does state, 'The rationale for public support of uncompensated trauma services is the same as for critical police and fire services; a trauma system is a necessary public service that ought to be publicly supported.'

"Today this body will have the opportunity to vote in support of a bill to provide for additional funding to Hawaii's Trauma System Special Fund. This bill is to ensure the health, welfare, and safety of the citizens and visitors of our State. I respectfully urge all Members to support Senate Bill 1804. Thank you, Mr. Speaker."

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

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 Committee was adopted and S.B. No. 1804, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMA SYSTEM SPECIAL FUND," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sonson and Waters being excused.

Conf. Com. Rep. No. 173-08 and S.B. No. 2083, SD 2, HD 1, CD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2083, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SUPERVISION OF ADULT OFFENDERS," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sonson and Waters being excused.

Conf. Com. Rep. No. 174-08 and S.B. No. 2423, SD 2, HD 2, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that S.B. No. 2423, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I stand in strong support on this measure. Mr. Speaker and colleagues, I'm asking for your support on this measure. As you remember at the turn of the century, Dillingham had a train that went around Kaena Point and the coastline, and the pristine valleys that we have in that area. In our area of the North Shore, we have the Kaena Point NARS system which we approved a couple years ago and we saved that area. Also as you move on this train on the coastline, you stop at Waimea Valley. Waimea Valley was tormented by developers that wanted to come in. The City, the State, and the federal government came together with the Trust for Public Land to work together in getting this valley. They succeeded the other year to get it, and now it's in the hands of OHA.

"As we continue this journey we go down to Pupukea/Paumalu, which is right above Sunset Beach, right in front of the famous surfing spot we have on that side. We had a partnership there with the North Shore Trust for Public Land. We had Obayashi who

wanted to develop the area, and the community spoke. We had a big Ho'olaule'a this year to honor that. So this train is going to keep on moving, and for us on the North Shore as we look at other bills relating to land, we want to preserve the pristine lands that we have. I'm asking my colleagues to take a look at this because right now they way the bill is crafted, we are working with the Governor to look at ways of getting the best deal. Plus there is no money in this bill. Basically the money they have is taken out of the reserve funds of the Department of Land and Natural Resources of \$250,000.

"I ask my colleagues to take a good look at this. I know a lot of you have your priorities regarding your island and your coastline, but because this is something that the Governor mentioned, and it just so happens that this beautiful spot is in my area, so I'm asking for my colleagues to support it as we move forward. We have no guarantee, but we have other important ag lands we have to take a look at also. Again Mr. Speaker and colleagues, I ask for your support, thank you."

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

"Mr. Speaker, I rise in opposition of this matter. I believe that we should keep the country, country. But I'm rising in opposition on the principle of equity. The reason why we are trying to pass this bill or the bill was drafted, is because the North Shore does not have infrastructure. I've been in this Chamber for four years, and I've been yelling for infrastructure for the West Side. And nothing is being done. I'm talking about every day, new houses are being built.

"For Act 178 of Hawaii's Session Laws 2005, this body included in the budget an expenditure of \$200,000, a mere \$200,000, for conducting a Pearl Harbor feasibility study to open the transportation crisis along the Leeward Coast of Oahu. The Governor refuses to release this money to explore possible transportation solutions for West Oahu. The money will ..."

Representative Meyer rose, stating:

"Mr. Speaker is the present speaker talking to this bill?"

The Chair then stated:

"She's making some connection to this particular bill, yes. So please proceed as tied to the 2005 appropriation."

Representative Cabanilla continued, stating:

"Thank you Mr. Speaker. Mr. Speaker, I cannot convey to my constituency that I support this expenditure of \$250,000 to explore some options for saving North Shore infrastructure shortcomings in defense of keeping the country, country when the Governor will not even entertain the possibilities of building West Oahu a reversible expressway to keep up with all of the development being placed in my neck of the woods.

"To vote 'yes' and approve the Governor's spending an initial \$250,000 to merely weigh in on the property concerning the Turtle Bay confines, is to take the position that it's okay to ignore the lack of infrastructure facing West Oahu. And that it's okay to look the other way when massive amounts of farmland in West Oahu are being sold off to developers. So I ask you my colleagues, is it okay to authorize the Governor to spend \$250,000 to be used as a guise to eventually put a halt on developing property on the North Shore, while at the same time the Governor refuses to examine, for a lesser amount of money, a way to resolve West Oahu's traffic blight with the tunnel study? We, the people of West Oahu, refuse to be second-class citizens. Thank you, Mr. Speaker."

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

"In strong support. I first want to, in the defense of the Governor and this Legislature that basically funds a lot of our roads, I do want to thank the Governor and the Legislature for making the West Side a priority in traffic relief. This Legislature and the Governor, in just the brief four years I've been here, has allocated over \$150 million just for roads alone for our districts in the Ewa Plains. So I'll take \$150 million over \$250,000 any day. And I don't think that the people of Ewa would want to short change the people of the North Shore who've gotten much less than us, and this is something that's going to help all of us and keep our country, country so when you go there it'll still be the same. Thank you."

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

"Mr. Speaker I stand in strong bipartisan support, with colleagues from the North Shore, and I think probably all over this island. Mr. Speaker this is truly a landmark piece of legislation. For all of us who live on Oahu its equivalent to the decisions in the '60s and '70s when they said 'Kaanapali will be a cluster development and will not be sprinkled all over Maui.' When Waikiki was decided that the boundaries would be the Ala Wai Plaza and not sprinkled all over Oahu. This is drawing the line where country is country, and expansion of tourism or destination areas will be limited or confined to certain spaces.

"There is a rich history behind this bill, not just with what is now, in the Lingle-Aiona Administration, but with the alertness of the Governor to this particular opportunity. In the past, the North Shore had come together with the purchase of the community assets in Waimea Valley. This is equivalent to what has been done in the past. When Turtle Bay went into foreclosure, that became the opportunity for the Governor to act, to preserve for generations the beauty which is at the North Shore, and that it doesn't become another mini Waikiki or a huge tourist attraction. Mr. Speaker, the bill is also modeled after the spirit of Kukui Gardens, the one that allowed the preservation of affordable housing in Downtown Honolulu.

"This bill, as mentioned, is only \$250,000 for the purpose of negotiating with the landowner to enter into a cooperative agreement with other entities to acquire the property. Mr. Speaker, we are not getting into the hotel business, we are simply negotiating whether the hotel will be run and operated by the private sector. It also authorizes if necessary the use of eminent domain in the access and purchase of this particular property. The bill also, Mr. Speaker, allows the State to use a wide variety of investment in combination of assets to negotiate the acquisition, that is a private-public partnership in many different ways of which the tax payers, I believe, will not be affected at all.

"There is wide support for this endeavor. I had the opportunity to go to Kahuku High School the night that probably 600 to 700 residents came out in almost a unison of support for this particular purchase. And the Governor is not doing it alone, Mr. Speaker there is an advisory working group, the Turtle Bay Advisory Working Group, I think it's a bit big with 31 people and sometimes many, many voices to hear, but it's moving as a group, it's not going to be unilaterally by the government or by the Governor, but it's going to be a decision by the community.

"Mr. Speaker I think this is a good decision, it's a line in the sand to say like we have in many other parts of the island, including my district in East Honolulu, we will not make a tourist destination in Hawaii Kai. We will not have an expansion of Turtle Bay as it is now. We will have enough that it can survive, but we will keep the country as much country as possible. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Mr. Speaker we see the telltale signs of a slowing economy. For three straight quarters the Council on Revenues had dropped its revenue

forecast. On Monday we passed a budget that forced us to cut the Governor's Supplemental Budget request by \$44 million. With Hawaii's economic vitality in question, how in the world can we begin going down the road of spending hundreds of millions of dollars of taxpayer money for the purchase of Turtle Bay? Sure, it certainly would be nice to have. It would also be nice to have school campuses that weren't falling apart. It would be nice to have harbors that didn't crumble into the ocean. It would be nice if we had more money to address the homeless problems in Hawaii.

"I really doubt and question if we as a state can afford to purchase Turtle Bay. We are about to purchase Galbraith Estate, and at least that is in the State's budget. The acquisition of Turtle Bay has not been part of the Governor's or the Legislature's financial plan. We are not buying a forest here. There is a hotel and a golf course on the property. The State does not have the expertise to run a business or get into management contracts to run these operations. And if their end game is to condemn the land and sell off all the pieces to other companies or environmental groups, then let the market forces play out and may the best and highest bidder win.

"This measure is getting a lot of people's hopes up without a clear plan for financing its purchase. This is like selling the people on the need to build an aquarium in Ko Olina which will never be built. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, in strong support. And I do ask that the words of the Representatives of Hawaii Kai and the North Shore be entered as my own. Mr. Speaker, I think it's so important that we not pit district against district because someone didn't get something out of it, and this good idea cannot go forward. If it's a good idea and if it benefits the people of the State of Hawaii. We are an island. We are a state of many islands, but on this island, let me put it in perspective. Compared to states on the mainland, we're very small. So when we benefit open space and make sure that we have beauty and we invest in beauty on the North Shore, we all benefit. And most of all we should always remember, our number one industry to date is still tourism, and we don't want to kill the goose that lays the golden egg. People do not come here because it looks like from where they come. They come here because of the beauty of Hawaii. Thank you."

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

"Thank you Mr. Speaker, I rise in support with reservations of Conference Committee Report No. 174-08. Mr. Speaker, as this body knows this bill comports with the Governor's plan for the State to purchase Turtle Bay as discussed during the Governor's State of the State Address. As an initial matter, Mr. Speaker, I would like to applaud the Governor for this bold move and for her vision to preserve and protect some of the last remaining open space along the North Shore. I also want to recognize and commend the many individuals who came out before the Finance Committee to testify in support of this measure including Professor Denise Antolini from the Richardson School of Law, a former Law professor of mine.

"My reservations however Mr. Speaker stem from three main reasons. The first being priorities. It is our job to determine the priorities of government when funding projects. This becomes even more paramount when the State's economy is slowing down. This transaction allows the State to, among other things, issue general obligation bonds for the purchase of Turtle Bay. As this body knows, the State floats general obligation bonds to build schools. My district has two of the four multi-track schools in the State, and we cannot seem to build schools fast enough because of budgetary constraints. I submit that many of my constituents strongly believe that building schools in the fastest growing district in the State of Hawaii is a higher priority than purchasing Turtle Bay.

"This bill would further allow the Governor to exercise the State's power of eminent domain if an agreement to acquire Turtle Bay is not reached in a reasonable time as determined by the Governor. On this point, I refer to the testimony of Nicola Jones, CEO of Kuilima Resort Company, the owner of Turtle Bay Resort. Specifically, Ms. Jones states "Kuilima cannot support any proposed legislation which suggests that the State of Hawaii acquire the Turtle Bay Resort by exercising the power of eminent domain, as such action would clearly interfere with Kuilima's vested legal rights."

"My reservations with this measure not only deal with priorities, but deal with the fact that should the Governor exercise the State's power of eminent domain, we are inviting a potential lawsuit against the State for interfering with Kuilima's vested legal rights. That, Mr. Speaker, is not good public policy.

"Finally Mr. Speaker, my reservations stem not only from priorities and the potential litigation from this bill, but from the Governor's senior policy advisor, who I have great respect for, but who herself admitted that this is a complicated measure. In other words, this is not a simple land transaction involving a purchase of property by the State. Instead, there are many issues that will have to be addressed that preclude this from being a simple land transaction. For example, the bill states "The land to be acquired shall include the unimproved lands that are not used for the hotel and resort property or any appurtenant uses thereto, including but not limited to golf courses, stables, condominiums, parking areas, nurseries, and physical plants." What this means is that the purchase could include things such as golf courses, stables, condominiums, parking areas, nurseries, and physical plants, which inevitably will lead to additional costs and subsequent issues for the State such as management agreements as noted by the Representative from Salt Lake.

"Again, I refer to the testimony of Ms. Jones, the CEO of Kuilima, who states "The Governor and many others who have testified in support of this measure recognize the importance of maintaining the current Resort operations for employment, recreation opportunities and the economic benefit to the region of the visitor draw. A very important issue to bear in mind is the cost, over and above the operating income, of keeping the Resort going, including the cost of necessary capital improvements and debt service." When I asked the Governor's senior policy advisor in the Finance Committee hearing as to what the Administration envisioned for handling these issues, she acknowledged that this was a complicated bill because of these types of issues.

"Again Mr. Speaker, I support the intent of this bill because it is in the public interest to preserve our open spaces. Tantamount is that I support my colleague from the 46th District. However, I don't believe that purchasing Turtle Bay is a priority at this time, versus the other needs we have in the State.

"Secondly, because I believe this bill could lead to litigation, and finally because of the additional costs and complicated issues associated with the purchase of Turtle Bay. But because I support the Governor and the intent of this measure, I rise with reservations. Thank you, Mr. Speaker."

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

"Mr. Speaker I'd like to ask for a ruling of potential conflict of interest. At my law firm, I am one of the attorneys representing the citizen group that has sued Kuilima Resort development," and the Chair ruled "no conflict."

Representative B. Oshiro continued in support of the measure, stating:

"Thank you very much. With that having been said I would like to rise in support and just make a few brief comments. I do agree with some of the concerns and objections that some people have, whether

truly this is going to be a high priority, and whether we have the money. But I think at the end of the day what we have to ask ourselves and what I've always been taught is, if you don't try and you don't ask, then the answer will always be no. So really, if you take a look at the bill and the tone of the bill, that is really all we're talking about and that's all that we're directing the Governor to do.

"Section 2 basically tells her that she has the authority to negotiate, that's all. And she should look at alternative means of funding as stated in lines 12 through 21. As we've seen with the Trust for Public Lands, they've been extremely resourceful in their ability to maneuver and negotiate and leverage additional funding to purchase a multitude of conservation lands all over our State and we've been the beneficiary of that. So for them to engage in one more endeavor, a huge one I do admit, but one more, I don't think is anything all too daunting at this point.

"The second thing is if you look at Section 3, what it states is that if at some point it's found not feasible, at that point then the Governor should try and look at cooperative agreements.

"Finally, if in the event, in Section 5, that cannot be done in a reasonable time, at that point eminent domain to acquire the unimproved property is authorized. But again while concerns have been raised about eminent domain and I do agree eminent domain is a means of last resort, I do think it's put in the bill for the specific purpose of a hammer. To let Oaktree know, to let Kuilima Resort Development know, that we are serious that we want to acquire this property. Without that language I think that this bill would lack the hammer that's necessary to make it truly meaningful.

"At the end of the day, there may be some concerns with the language in Section 5, lines 15 to 16 that says, 'for the purposes of this Act, condemnation of the property shall not be subject to legislative disapproval.' However as we know and as we've stated many, many times in this Legislature, one Legislature cannot bind another Legislature. One act does not bind a future act. Even if we decide at a later point that we want to disapprove, we can do that. Even if we decide at the end of the day that the money that's been requested for eminent domain, we can decide not to fund that. And that is a road that I agree will be a very, very long one in coming. Anybody that has seen a condemnation action knows that it takes several years of litigation to reach a valuation.

"So with all of that having been said, I do support at least the attempt that we try at this point to support the Governor, to support the North Shore community in their desire to have this property remain in conservation. Thank you."

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

"Thank you very much Mr. Speaker. I rise in support, and first could I adopt the words of the previous speaker as if they were my own. Probably a lot of you are wondering why a Maui guy is standing up to talk about Turtle Bay. The reason is that this is important for a number of reasons.

"I support all of the acquisition bills that are for open space. Because it really, in the end, it's good economics. If we look at the visitors who are coming in because of the weak American dollar, it's Canadians, Europeans and Australians. When polled, repeatedly, why did they come here, they come here for the cultural and natural pristine environment. As the speaker from Liliha said, they don't come from LA to see LA. And we have a real example in West Maui.

"As an aside if the Members can indulge me, many years ago I had a brief opportunity to talk to former US Representative Patsy Mink, who tried to help us to preserve the north beach of Kaanapali. And she said that this was one of her biggest regrets and that in the end it would hurt not only the people, but the State. We now have large skyscrapers there. When visitors are polled repeatedly why they are

not going to return to the area, it's because, 'You are ruining the reason why we came.'

"Granted it's a complicated issue, there are a lot of things that need to be worked out. But as the good Majority Floor Leader said, we have to at least try. And I totally understand the concerns of my colleagues and I appreciate them. But in the end, I think this is good economic sense given the changing face of tourism in the State which is still our number one industry.

"So again I support my colleague from the North Shore, Senator Hee and the Governor in trying to move this forward. I know it's not easy, but at least we have to try because I do believe, maybe it's only my own personal take, it's a good strategy for us to be able to attract visitors from a very competitive visitor market from other destinations that are trying to woo away our visitors, and in the end that is going to really hurt our pocket books. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, in opposition. I think all we're doing is bailing out a bankrupt company, and once again the Neighbor Islands are getting screwed. Five years ago we adopted the 11,000 acres of South Kona, truly a very, very historic site. You've been there Mr. Speaker, and other Members have, and it's because of lack of rainfall, lack of people living down there, it's exactly like it was hundreds of years ago.

"The protection of the South Kona Wilderness lands expires at the end of June, and Jeff Stone will be free to develop it. The Governor has done absolutely nothing for the last five years to try to protect that land, either through an acquisition or through trade. When we passed that bill we gave her \$600,000 to do an appraisal, an independent appraisal, and to this date we've never seen an independent appraisal. The only appraisals we've had have been from Jeff Stone's people. And they valued that property as a build out, the same as Hokulia.

"Senator Inouye, through his resources, would like to be able to acquire that land such as he has acquired other South Kona lands, but we've never been able to give him an independent appraisal of that land. I can assure Jeff Stone that I will join with the people, the *kupuna* of Mililii to make sure that that land does not get developed. Thank you."

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

"Thank you Mr. Speaker, I rise with support, but with reservations. Before your House Committee on Tourism and Culture the Governor's Policy Advisor testified that she didn't need a bill to do the land acquisition, which is this bill that's before us right now. And then she came before the Finance Committee and conceded she took that part out of her testimony, which is almost identical, but said that, no, she does need a bill to do this, and she needed us to do this, so I'm just wary of the \$250,000. There's no plan. I don't know what we're getting ourselves committed to, if we are making a commitment, and the expenditures that may follow after this, and for those reasons, I rise with reservations."

Representative Ward rose to respond, stating:

"Mr. Speaker, again I rise with support for what I believe is still strong bipartisan support on this measure, Mr. Speaker. Regarding the bill and the eminent domain, it's nothing that the Governor had ever asked for or said she needed, I think it was put in as one quoted, as a 'hammer'. I don't think the Governor deals with a hammer, and I don't think she needs one, but it's there. And I personally don't believe she'll probably even use the quarter of a million dollars that's in there, but it's a vehicle that shows that the government in unison is

moving together for the purchase of this valuable piece of property for the history of this State. Thank you."

Representative Takai rose in support of the measure with reservations, and asked that the remarks of Representatives Har and Wakai be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

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

"Mr. Speaker, I rise to speak in favor of Senate Bill No. 2423, Conference Draft 1, Relating to Land Acquisition.

"This bill authorizes the Governor to negotiate on behalf of the State with private interested parties to purchase the resort property located in Kahuku, Oahu, owned by Oaktree Capital management, LLC, through its subsidiary Kuilima Resort Company and their successor in interest. The subject property under negotiation includes the lands known as the Turtle Bay Hotel and Resort.

"The Koolauloa-North Shore region known as Turtle Bay, located in the *ahupuaa* of Hana Kaeo in Kahuku, Island of Oahu, represents one of the last remaining partially developed shoreline areas on the most populated island in our State. The Turtle Bay area encompasses a total of 1,429 acres on the *makai* and *mauka* sides of Kamehameha Highway in Kahuku that includes unique and irreplaceable natural and cultural features, including Punahoolapa Marsh, Kawela Bay, and alluvial sand dunes.

"Since 1969, the majority of the property has been classified for urban land use. In 1986, the Honolulu City Council issued a special management area permit to Kuilima Development Company to allow the construction of up to 3,000 hotel rooms plus the development of residential units and commercial structures on the property.

"As one who has grown up in Wahiawa and considers the North Shore, my "backyard", it is apparent that over the past 20 years, there has been significant change in the surrounding communities along the North Shore, as well as the rest of Oahu, such as increased traffic congestion and additional demands on remaining beaches, recreational areas, and undeveloped land. As such, it does not seem practical or of community benefit to consider the type of development previously approved. In fact, there is a lawsuit pending in Circuit Court that will determine whether there is a "shelf life" to a prior Environmental Impact Statement and whether a Supplemental Impact Statement should be required.

"Meanwhile, Oaktree Capital Management, LLC, the current owner of the Turtle Bay Hotel and Resort, has failed to make payment and as a result has been subject to a foreclosure action by the creditors for an estimated 880 acres of the property on the makai side of Kamehameha Highway. Accordingly, Oaktree has actively solicited bids for the sale of this property for resort development.

"It is important to the economic benefit of the community to ensure that the existing hotel and resort remain viable; that the jobs of the employees of this facility are protected; and that the proceeds from the sale of the developed parcels, to the extent possible, cover the State's costs to acquire and preserve a majority of the undeveloped area.

"Furthermore, the current global economic situation and the conditions faced by national financial markets are such that the State now has a unique and distinct opportunity to enter into negotiations for the purchase of the Turtle Bay property.

"As such, this bill will provide the Governor with the statutory tools to negotiate the acquisition of this important land. An appropriation of \$250,000 from the Special Land and Development

Fund, Department of Land and Natural Resources, has been made to cover expenses involved in hiring consultants, conducting appraisals, and covering other costs. In retrospect, however, it truly is unfortunate that the Governor waited for her State of the State Address to notify the community and Legislature of her desire and intentions. For had she been proactive, it would have elevated the issue to a broader State wide community and not merely a local issue for those fortunate to live on Oahu's North Shore. It may have even enabled the Neighbor Islander to understand and appreciate the importance of this acquisition for the people of the North Shore, Oahu. Because of her delay, it also appears that federal assistance will likely not be forthcoming and Hawaii's Congressional delegation raised similar displeasure with the Governor's untimely announcement.

"In the end, however, it is my sincere hope that this bill will suffice, because it would really be tragic for the Governor to raise the expectations of the citizens of that entire region, only to see these efforts fail. In fact, many of my friends on the North Shore know that it has been a chief concern for me ever since the public announcement during the much publicized State of the State Address. That is, was the community of the North Shore being used for the Governor's own political legacy? Were the members of the Turtle Bay Advisory Working Group and their individual and collective community reputation being exploited? Was this an attempt to rehabilitate the Governor's standing with the Environmental Community and activist organizations like the Sierra Club of Hawaii to atone for the events leading to and concluding with the 2007 Hawaii Superferry Special Session debacle? Only time will tell.

"Indeed, one of the reasons that I am submitting written comments is to formally recognize and memorialize the members of the North Shore Community who have unselfishly volunteered to serve on the Turtle Bay Advisory Working Group. They are, William Paty (chair), trustee, Mark A. Robinson Trust; and former chair, Board of Land and Natural Resources; Denise Antolini, associate professor of law and director, Environmental Law Program, University of Hawai'i, William S. Richardson School of Law; Cy Bridges, cultural director, Polynesian Cultural Center and president, Native Hawaiian Hospitality Association; Mitch Costino, president, Kuilima West Homeowners Association; Councilmember Donovan Dela Cruz, Council District 2 (North Shore, Wahiawa, Mililani, Ahiimanu); Eric Gill, financial secretary – treasurer, Unite Here Local 5; Sen. Clayton Hee, Senate District 23 (Kahuku, La'ie, Ka'a'awa, Kāne'ohē); Lea Hong, director, The Trust for Public Lands; Ted Liu, director, Department of Business, Economic Development and Tourism; Rep. Michael Magaoay, House District 46 (North Shore, Mokolē'ia, Schofield); Ernest Martin, Deputy Director of Department of Community Services, City and County of Honolulu; Cathleen Mattoon, past president, Ko'olauloa Hawaiian Civic Club, member Punalu'u Community Association; and officer Keep the Country Country, Inc.; Blake McElheny, president, North Shore Community Land Trust and member, North Shore Neighborhood Board #27; Steve Metter, CEO and principal, MW Group, Ltd.; Junior Primacio, member, Ko'olauloa Neighborhood Board #28, and president, Kahuku Community Association; Laura H. Thielen, chair, Board of Land and Natural Resources; Dr. Steven Wheelwright, president, Brigham Young University – Hawai'i. And, so, whatever might be the outcome of this bold proposal, future generations of North Shore residents should know that their local leaders came forward to serve their community in this time of great need and a time of great opportunity.

"It is for all these reasons, that I support this measure. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2423, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," passed Final Reading by a vote of 37 ayes to 10 noes, with Representatives Berg, Cabanilla, Carroll, Green,

Hanohano, Herkes, Morita, Saiki, Tokioka and Wakai voting no, and with Representatives Bertram, Nakasone, Sonson and Waters being excused.

Conf. Com. Rep. No. 175-08 and S.B. No. 2915, SD 2, HD 1, CD 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2915, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TARO," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sonson and Waters being excused.

Conf. Com. Rep. No. 177-08 and S.B. No. 2646, SD 2, HD 2, CD 1:

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

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

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

"Thank you, Mr. Speaker. Also in opposition to Senate Bill 2646 relating to IAL. Mr. Speaker, I would like to just paraphrase from an email that I received from Councilmember Joanne Yukimura from Kauai. 'We import 90% of our food in Hawaii. With food riots in various parts of the world and the rising cost of oil are telling us that we have to get serious about in-state food production. The agricultural lands of importance to this State are a resource that we will desperately need in the near future. We must not allow our best agricultural lands to be subdivided and paved over through that 15% provision of the bill,' and I share the concerns not only from the former mayor of Kauai, but the concerns of hundreds and hundreds of emails that I've received from people that are saying, 'This is not the way to go. Don't pass this bill', and I hope other colleagues in the House will join me in voting no. Thank you."

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

Representative Berg's written remarks are as follows:

"Mr. Speaker, I rise in opposition of SB 2646.

"In short, SB 2646 provides less responsible large landowners a huge potential windfall. Two of the most problematic sections would open up current Ag District lands for Urban and/or Rural District uses, which could negatively impact authentic intentions of addressing our agricultural needs and lead to the kind of abuses which are currently evident in Ag Districts, to which counties have been turning a blind eye. This bill would legitimize such currently illegal uses in the future.

"The following specific aspects of the bill should cause us concern, as well:

- 1) Landowners would be able to reclassify 15% of their lands to urban or rural under an expedited Declaratory Ruling Petition if they designate 85% of their lands as "important agricultural lands" (IAL). The implication of using this procedure is to avoid contested case procedures, which would otherwise apply, in favor of only public hearings.
- 2) Instead of having to meet the 8 criteria set by the 2005 Legislature to designate IAL, a landowner combining lands

under this declaratory order procedure needs only meet two (2) of the eight (8) regular criteria. That means that lands that might not otherwise qualify as IAL under current law would qualify easier, in order for landowners to get the 15% "gift" of reclassifying to urban or rural.

"The result of both of these provisions in the bill is that a landowner, to qualify for the 15% "gift" of reclassified land, need only designate IAL without regard to whether actual agriculture is feasible on it or whether the IAL conforms to "general, development, and community plans of the county." (section 18 of SB 2646, CD 1, under the proposed HRS sec. 205-44(b).

3) This bill also gives large landowners the opportunity to get State tax credits for attempting to deprive taro farmers of water from streams by allowing tax credits for "qualified agricultural costs" supporting IAL use. These costs not only include the costs for the repair and maintenance of irrigation ditches and transmission facilities, but the legal costs of fighting for permits against others, which could include taro farmers, in order to provide water to IAL. (section 4 of SB 2646, CD 1, under the proposed new HRS sec. 235-___(k), items 1 and 4)

4) The only apparent restriction on this brazen expedited land development scheme is the requirement that any land slated for the Urban District conform with "general, development, and community plans of the county." However, there is NO similar restriction for lands that one seeks to reclassify to the "Rural" District. This provision would allow for luxury residential subdivisions that would otherwise be illegal under the Ag District. The most prominent examples of where such a provision can benefit the landowner in reclassifying such proposed developments is Hokulia and La'au Point, both of which are now pending before the LUC.

"Mr. Speaker, this bill is the most blatant land development grab in history, disguised as an IAL incentive measure. It not only rewards the large landowners to urbanize a portion of their land in exchange for designating a percentage as "important agricultural land," it also provides a corporate bailout to former plantations and large landowners, essentially offering State support for further water diversions.

"Mr. Speaker, I urge my colleagues to record their votes against SB 2646, CD 1. This bill is not prudent for Hawaii's agricultural future or for the security of our food needs and requires us to give up far too much to support true agricultural activity."

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

"Mahalo ka ha'i 'ōlelo. Makemake au i koho 'a'ole no keia pila kenekoa 'elua 'eono 'ehā 'eono e pili ka 'āina 'oihana mahi 'ai nui. 'O ka mana'o mua he mana'o maika'i. Aka ka mana'o hope 'a'ohē pono ka mana'o. 'O kākou hana no keia pila e hele me ka nānā pono a me ka mana'o pono. 'O ka 'āina he mea nui nō nā kupuna kahiko. Ina 'a'ohē 'āina, 'a'ohē mea 'ai, 'a'ohē 'ola nā po'e apau. Na ke akua e alaka'i kākou i nā mea pono a me ka maluha. E holomua pono a loa'a e ka lei lanakila. Ke akua pu me kākou i pono ke ea o ka 'āina. Mahalo."

[Translation provided by Representative Hanohano:

"Thank you, Mr. Speaker. I am casting a no vote for the Senate Bill 2646, Relating to Important Agricultural Lands. The first part covers excellent issues. However the last part of the bill is not right. We need to move carefully on this bill. Land is an important issue for our ancestors. Without land, there is no food and we will not be able to sustain ourselves. May the grace of God lead us in the right direction and peace be with all of us. We must move forward on a righteous path that the adornment of victory will be realized. May

God be with us always, that the life of the land will perpetuate in righteousness."]

The Chair then stated:

"Representative Hanohano, would it be possible to have a translation for the Clerks Office so that we could insert it in the Journal for the general public?"

Representative Hanohano responded, stating:

"Ā hiki nō."

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

"Thank you Mr. Speaker, in support. Was the previous Representative's comments in support of the measure?"

The Chair responded, stating:

"I believe in opposition."

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

"Mr. Speaker, in support. Mr. Speaker, in 1978 the voters approved a constitutional amendment requiring the State to preserve and protect agricultural lands through the identification of important ag lands. Thirty years, Mr. Speaker, thirty years have passed since then, and the State has yet to implement this constitutional amendment, or requirement.

"In 2005 the Legislature passed Act 183, which established a framework for the designation of important ag lands. One provision requires the Legislature to provide incentives for landowners and farmers to voluntarily designate their lands as important ag lands. These incentives need to be placed before the Land Use Commission to begin such designations. Mr. Speaker, this bill achieves that mandate of Act 183 by establishing the following incentives.

"One, making more flexible the regulation of farm dwellings and agricultural employee housing on land designated by the owner as important ag lands.

"Two, creating an important Agricultural Land Qualified Agricultural Cost Tax Credit, under which a tax credit is made available for investments in improvements on important ag lands.

"Three, establishing an agricultural loan guarantee program.

"Four, requiring the expedited review of State permits for agricultural processing facilities.

"Five, mandating the Department of Agriculture and the Department of Land and Natural Resources to identify public lands that should be designated as important ag lands.

"And six, authorizing the designation of important ag lands in combination with the reclassification of other agricultural lands to rural, urban, or conservation.

"By declaratory order of the Land Use Commission. This is by the Land Use Commission. To proceed through this process, the landowner must propose a minimum 85% to 15% split in the declaratory order petition. That is at least 85% of land must be designated as important ag lands with the remaining to be reclassified as rural, urban, or conservation. Only high quality lands may be designated as important ag lands under this process. The lands must have sufficient water to support viable agricultural reproduction and contribute to maintaining a critical mass important for agricultural operating productivity.

"Additionally, the Department of Agriculture must certify the quality of the lands for designation with respect to the lands proposed to be reclassified to urban must be consistent with the relevant county general plan and community development or community development plan.

"Mr. Speaker, what is important, but overlooked, is that the Land Use Commission has full discretion to approve or reject the petition. In other words, the bill does not force the Commission to approve a petition merely because it is submitted by a farmer or a landowner. The bill also requires the Commission to approve or reject the petition in its entirety. In other words, the bill also does not authorize the Commission to approve only the rural or urban reclassification part of the petition, but reject the important agricultural land designation part.

"Mr. Speaker, what is the significance of designating important ag lands? Obviously, designating important ag lands, we preserve lands for agriculture operations rather than for food or biofuel crops. And people have been mentioning in this Chamber about the food prices. Just the other day I went to the supermarket and the rice shelf was all empty. The prices for chicken, eggs, and other commodities are going up.

"Secondary benefits will also be achieved such as maintaining open space, promoting aquifer recharge, preventing soil erosion, and limiting the outflow of domestic dollars to purchase oil or food.

"Mr. Speaker, what is the justification of this bill? The lack of sufficient public funds to expand on financial incentives. To designate important lands requires the Legislature to be creative and innovative."

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

Representative Ito continued, stating:

"Thank you, Representative. This bill is crafted to make available more non-fiscal incentives than fiscal ones. Of the non-fiscal incentives, the 85/15 reclassification incentives is the most important. It is intended for land owners who would be willing to designate a large portion of their lands as important ag lands in return for a relatively quicker declaratory order process to reclassify a smaller portion of the other lands to rural, urban, or conservation.

"Mr. Speaker, the other incentives, especially the tax credit, are intended to assist smaller farmers, as well as large land owners. Mr. Speaker, your Committee on Water, Land, Ocean Resources and Hawaiian Affairs, for the last year and a half has traveled throughout the State, and we've been talking to landowners, farmers, elected officials, county officials, realtors, cattlemen, we talked to just about every person possible to give us input and come up with a bill. This bill, Senate Bill 2646. And Mr. Speaker, I'd like to use the phrase that the previous speaker used to sum up this bill. All it takes is political will. Thank you."

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

"Thank you Mr. Speaker. I'm rising in strong support for this measure. Senate Bill 2646 is a comprehensive package of incentives including the needs of farmers and landowners to enable long term viability of agriculture in Hawaii. This bill is an economic stimulus package for agriculture, and that has been discussed for years, and finally we've arrived at something that will do what we wanted done. Hawaii agriculture needs a boost and a positive economic solution. With this bill, we are taking a proactive step to enhance agriculture versus providing assistance when industries are in trouble, which is something we've done over and over, so I applaud the introducers of this bill and this is a very positive step for sustainable agriculture in Hawaii."

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

"Mr. Speaker, I rise in support. SB 2646 will continue our historic pathway to keep our farmers viable in our best agricultural lands and production. I too would like to observe what we have been toiling over with this issue ever since the State Constitution was amended some 30 years ago, and we are still working to preserve and protect important agricultural lands. When are we as a body, going to take that bold step in starting this effort to execute a constitutional mandate, I ask you? The time is now. Act 183 approved by this body in 2005 set up a framework and process to designate important ag lands. This measure builds upon this framework to strengthen our farmers' ability to be viable during these difficult and challenging economic times.

"This bill will provide incentives and much needed economic stimuli for our farmers. It will provide a tax credit for agricultural investments that will include some of the basic infrastructure needs and processing facilities across our State. This measure invites the private sector to the table to implement this action before it starts deteriorating. And it accelerates the permitting process to facilitate expansions in a timely manner that will save millions for farmers and ranchers alike.

"Further, this gives incentives for agricultural workforce housing that is sorely needed to provide for a strong workforce. And as previously stated, it sets up a guarantee agricultural loan program that will encourage further investment in developing agriculture infrastructure and its operations.

"Mr. Speaker, the agricultural aspects of this measure will have a positive impact on many farmers throughout this State. Farmers like Dean Okimoto and Richard Ha, who are just some of the more progressive farmers seeking innovative ways to diversify their agricultural operations. We should respect their wishes, ensure their way. We need this measure's incentives to ensure the viability of these farms and farmers. I would like to say that contrary to what some believe, this bill serves as a comprehensive economic stimulus package for Hawaii's agricultural industry.

"I believe, Mr. Speaker, that the benefits of this bill far outweigh any perceived negative aspects. The closure of Aloha Airlines, ATA Airlines, The Weyerhaeuser box plant, rising fuel costs, global shortages and increased cost input are just some of the difficulties putting our agricultural industry at risk. We cannot afford to stand by idly and let our farmers face such daunting challenges alone. Nor can we allow misinformation to dictate our actions as legislators. Such an approach can only lead to the demise of our agricultural industry. For the farmers and for the future of Hawaii, I encourage my colleagues to vote yes on this measure. Mahalo."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. There's no doubt that this bill has many good provisions that we can all support, however in Section 19 of this measure, there's a potential of removing approximately 290,000 acres of agricultural lands to be placed in rural, urban, or conservation without the benefit of an open, transparent public process. On page 37 subsection (f), it states, 'The designation or reclassification of land pursuant to subsection (a) or (b) shall not be subject to the district boundary amendment procedures of sections 205-3.1 and 205-4.' Essentially what it means is that this removes the designation or reclassification from Chapter 91 proceedings, eliminating any kind of structured review of that petition.

"And again, I can support many of the provisions in this bill, but we should not, especially when it deals with this kind of acreage, remove these proceedings from any kind of public and transparent review. Thank you."

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

"Thank you, Mr. Speaker, in support. I was a delegate to the 1978 Constitutional Convention and I'm very glad to see that finally this provision will be effectuated. I would like to have the words of the Chairmen of Agriculture and Water, Land committees adopted as my own," and the Chair "so ordered." (By reference only.)

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

Representative Shimabukuro's written remarks are as follows:

"SB 2646, HD 1 provides landowners a huge potential windfall. The two most dangerous sections would open up current Agriculture District lands for Urban and/or Rural District uses, either of which could negatively impact agriculture and lead to the kind of abuses currently illegal in the Agriculture District, but to which counties have been turning a blind eye. This bill would legitimize such uses in the future.

"For example, the bill allows landowners to reclassify their 15% of their lands to urban or rural under an expedited Declaratory Ruling Petition if they designate 85% of their lands as "important agricultural lands" (IAL). The implication of using this procedure is to avoid contested case procedures, which would otherwise apply, in favor of only public hearings.

"Moreover, instead of having to meet the 8 criteria set by the 2005 Legislature to designate IAL, a landowner combining lands under this declaratory order procedure need only meet two (2) of the eight (8) regular criteria. That means that lands that might not otherwise qualify as IAL under current law would qualify easier, in order for landowners to get the 15% "gift" of reclassifying to urban or rural. The result: a landowner, to qualify for the 15% "gift" of reclassified land, need only designate IAL without regard to whether actual agriculture is feasible on it or whether the IAL conforms to "general, development, and community plans of the county." See, section 18 of SB 2646, CD 1, under the proposed HRS sec. 205-44(b).

"For landowners like Alexander and Baldwin and Wailuku Agribusiness, this bill also gives it the opportunity to get State tax credits for attempting to deprive taro farmers of water from streams by allowing it tax credits for "qualified agricultural costs" supporting IAL use. These costs not only include the costs for the repair and maintenance of irrigation ditches and transmission facilities, but the legal costs of fighting for permits against others, which could include taro farmers, in order to provide water to IAL. See section 4 of SB 2646, CD 1, under the proposed new HRS sec. 235-__ (k), items 1 and 4.

"The only apparent restriction on this brazen expedited land development scheme is the requirement that any land slated for the Urban District conform with "general, development, and community plans of the county." However, there is NO similar restriction for lands one can seek to reclassify to the "Rural" District, which would allow for luxury residential subdivisions that would otherwise be illegal under the Agriculture District, after the Hokulia decision. The most prominent example of where it can benefit the landowner is reclassifying such proposed developments as Hokulia and La`au Point into the Rural District, both of which are now pending before the LUC."

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

"Mr. Speaker, there are some misstatements about this measure that have been sent out to many of the members. I'm in support. I want to clarify some of the misstatements that have been sent to many of the members either through email or through papers that were dropped off at our offices.

"First off, the declaratory ruling for the 85% to be designated as important ag lands and 15% reclassified as rural, urban or conservation, is not a simple process and does not deny a petitioner an opportunity for a contested case hearing as stated by opponents of this measure. In fact, it is a detailed process. One, first of all, before you can even get your petition to the LUC, you have to get a certification from the Department of Agriculture. The Department will look at the lands to see if these are in fact viable and productive agricultural lands. So that's number one.

"Two, the LUC, Land Use Commission, may include reasonable conditions in the declaratory order. We put that provision in so the LUC could put conditions in this declaratory order.

"Three, the declaratory ruling for the 85% to be designated as important ag lands and 15% to be reclassified as rural or urban, is much more strict than the current law under Act 183. Under declaratory ruling there are two mandated criteria at the 8 criteria that are stated in Act 183. In Act 183, if you're looking in the bill of the 8 criteria, we asked the farmers, what is the most important thing to them. They said number one is water, and number two is critical land mass for production productivity. So if you look at the criteria under Act 183 you have to weigh it, and you can choose one of the criteria.

"Whereas in our 15%/85% reclassification or designation, you've got to have, not only weigh the eight, but you've got to have those two. You can't grow crops without water. And if you don't have land mass, then where are you going to grow your produce? So we're just trying to make it mandated, and it's a lot stronger than Act 183. So unlike that email that was going across our computers saying that this is weaker, it's actually stronger.

"The reclassification through the rural, urban, or conservation districts must fall within the classification criteria in our State statutes. The reclassification of the land to the urban district must be consistent with relevant county general and community development or community development plans. And also in Chapter 205-5 which says that the counties shall govern zoning for rural and urban districts, except for the conservation district which is under the State statutes. The counties use the general and community development or community development plans as guidelines for their zoning. So they still have to abide by that.

"Five, with respect to a petition that seeks to both designate important ag lands and to reclassify agricultural lands to the rural, urban or conservation district, if the Commission finds that either the designation or reclassification as proposed by the petitioner should not be approved, the Commission shall deny the petition in its entirety. So if anything is wrong in any part of this reclassification or designation, then the whole thing is going to be stopped.

"Six, under the Commission rules in Section 15-15-103, any petitioner or party may request the commission to hold a hearing. So yes, you can have a contested hearing; you have to request it.

"Under the HRS 205-4 subsection (i), after the Land Use Commission makes a decision, and the party doesn't like this decision, you can also appeal. You can use the courts for additional judicial review. We wanted to include judicial review. The declaratory order for 85%/15% designation or reclassification, like I said, is much stronger than Act 183's current law and language.

"Under Act 183, the county process for identifying and recommending lands for important ag lands would not happen no sooner than three years after the enactment of legislation establishing important ag land incentives. After the Land Use Commission receives the maps from the counties and the recommendation of the Department of Agriculture and Office of Planning, the Land Use Commission shall then proceed to identify and designate important ag lands. But in our bill, it is incentive for the land owners, if they do designate 85% to IAL and the 15% that's going to be reclassified either in the other two classifications, we allow the Land Use

Commission to designate lands into the important ag lands now despite ..."

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

Representative Karamatsu continued, stating:

"Despite what the law says currently, we create an exemption to designate it right now, because we don't have time to wait, there're too many delays in the current law, so we don't want to wait on this process because we don't want to lose any more important ag lands. What we want to do is save the lands right now, and we want to start the process now. So with these incentives enacted, it will take three years for the mapping process. But with this incentive, we can do it right now. And that's the incentive for the landowner to designate it, an incentive for us. It's a good trade off for the incentives, so that the State can get its lands right away.

"Another thing we also put in that the current law doesn't have is a provision that says you cannot remove important ag lands unless you get a Concurrent Resolution by both the House and the Senate. So that's our way of making sure that we have the best lands, and we have that final review after the Department of Agriculture, after the counties, after the LUC, etc., we as a Legislature can finally review, is this in fact important ag lands. So we have that jurisdiction as well.

"So let me emphasize, if you read the current law and you see what the email said, our bill is much, much stricter, much more stronger than the current law in making sure that we got good agriculture land. Because the criteria is strict, we have a process for a review that's a lot more strict, and we're trying to implement it right now instead of trying to delay the process. If you go with the current law without this incentive, we might not have all the ag lands left that we see in front of us. So thank you very much."

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

"Thank you, Mr. Speaker. On this measure in support with written comments. Especially in my community, my community is basically the last agriculture frontier once Kunia gets built up because all that time, it was from Del Monte, Kunia, Poamoho, Galbraith, and it all goes up to Laie, so basically the North Shore will be the last agriculture frontier on Oahu. Thank you."

Representative Magaoay's written remarks are as follows:

"Thank you, Mr. Speaker. Mr. Speaker, the incentives within this package were developed over time with many discussions. They cover a wide range of incentives, covering the critical areas for long term agricultural expansion in Hawaii. We understand as these incentives are passed, a similar package must be passed by the Counties.

"In 1978, the Hawaii State Constitution was revised to add Article XI, Section 3, which mandates: "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands." Act 183, Session Laws of Hawai'i 2005 established standards, criteria, and mechanisms to identify important agricultural lands and implement the intent and purpose of Article XI, Section 3, of the Hawaii State Constitution.

"Mr. Speaker, the measure we have before us represents another step toward securing the future of agriculture in Hawai'i. The incentives and protections provided by this Senate Bill reflect years of discussion and study in which diverse groups have come together with the common goal of conserving important agricultural lands and ensuring a vital, sustainable agricultural industry in the State. This measure will also create value and stability for landowners and agribusinesses which will promote the establishment and long-term survival of agricultural ventures on important agricultural lands.

"Important Agricultural Lands is an agricultural viability initiative. While there are examples of agricultural successes across the State, we have more examples of agriculture struggling or failing. During the past year we have seen dairies close, so now we only have dairies on the Big Island after next month. Egg farms now can be counted on one hand. I think both of these industries are agricultural commodities critical to self-sufficiency, yet we are losing them. Mr. Speaker, I urge my colleagues to support this measure in preserving important agricultural lands for our future generations. Thank you, Mr. Speaker."

Representative Karamatsu rose and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"I rise in support. In 1978, voters approved Article XI, Section 3, of the Constitution of the State of Hawaii, which sets out the framework for state policies to promote agriculture and the conservation of productive agricultural lands in the State. Article XI, Section 3, reads as follows:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

"To address the issue of important agricultural lands, Act 183, Session Laws of Hawaii 2005, established standards, criteria, and mechanisms to identify important agricultural lands and to implement the intent and purpose of Article XI, Section 3, of the Hawaii Constitution.

"Act 183 also recognized that while the supply of lands suitable for agriculture is critical, the long-term viability of agriculture also depends on other factors, including:

- (1) Commodity prices;
- (2) Availability of water for irrigation;
- (3) Agricultural research and outreach;
- (4) Application of production technologies;
- (5) Marketing; and
- (6) Availability and cost of transportation services.

"The purpose of Senate Bill 2646, Senate Draft 2, House Draft 2, Conference Draft 1 (Senate Bill 2646) is to establish a variety of incentives that meet the requirements of Act 183 by:

- (1) Providing incentives and protections to establish and sustain viable agricultural operations on important agricultural lands;
- (2) Providing for the designation of important agricultural lands on public lands by:
 - (A) Requiring the Department of Agriculture and Department of Land and Natural Resources to jointly identify the state-owned lands that should be designated as "important agricultural lands";

(B) Transferring management authority over those lands to the department of agriculture; and

- (3) Providing for the combined designation of important agricultural land and reclassification to other land use districts by declaratory order of the land use commission.

"Senate Bill 2646 is a comprehensive bill that addresses the issue of designating our important agricultural lands that has remained unresolved for thirty years. The following are the details of Senate Bill 2646.

Important Agricultural Land; Farm Dwellings and Employee Housing

"Farm dwellings and employee housing on important agricultural lands were identified as essential for a farm operation. The farmers expressed that they wanted to be able to live and work on important agricultural land.

"Senate Bill 2646 amends Chapter 205, Hawaii Revised Statutes by adding a new section to Part III that allows a landowner whose agricultural lands are designated as important agricultural lands to develop, construct, and maintain farm dwellings and employee housing for farmers, employees, and their immediate family members on these lands; provided that:

- (1) The farm dwellings and employee housing units shall be used exclusively by farmers and their immediate family members who actively and currently farm on important agricultural land upon which the dwelling is situated; provided further that the immediate family members of a farmer may live in separate dwelling units situated on the same designated land;
- (2) Employee housing units shall be used exclusively by employees and their immediate family members who actively and currently work on important agricultural land upon which the housing unit is situated; provided further that the immediate family members of the employee shall not live in separate housing units and shall live with the employee;
- (3) The total land area upon which the farm dwellings and employee housing units and all appurtenances are situated shall not occupy more than five per cent of the total important agricultural land area controlled by the farmer or the employee's employer or fifty acres, whichever is less;
- (4) The farm dwellings and employee housing units shall meet all applicable building code requirements;
- (5) Notwithstanding section 205-4.5(a)(12), the landowner shall not plan or develop a residential subdivision on the important agricultural land;
- (6) Consideration may be given to the cluster development of farm dwellings and employee housing units to maximize the land area available for agricultural production; and
- (7) The plans for farm dwellings and employee housing units shall be supported by agricultural plans that are approved by the Department of Agriculture.

Important Agricultural Land Qualified Cost Tax Credit

"Tax incentives are a critical component of the long-term viability of agriculture on important agricultural lands in the State. The legislature finds that it is in the public's interest to assist agricultural businesses in establishing and sustaining viable agricultural operations on important agricultural lands by providing incentives such as income tax credits.

"The purpose of this part is to establish an important agricultural land qualified agricultural cost tax credit to establish and sustain viable agricultural operations on important agricultural lands.

"Senate Bill 2646 amends Chapter 235, Hawaii Revised Statutes, by adding a new section that establishes the important agricultural land qualified agricultural cost tax credit. The credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. The tax credit amount shall be determined as follows:

- (1) In the first year in which the credit is claimed, twenty-five per cent of the lesser of the following:
 - (A) The qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$625,000;
- (2) In the second year in which the credit is claimed, fifteen per cent of the lesser of the following:
 - (A) The qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$250,000; and
- (3) In the third year in which the credit is claimed, ten per cent of the lesser of the following:
 - (A) The qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$125,000.

"If the credit under this section exceeds the taxpayer's net income tax liability for the taxable year, the excess of the credit over liability shall be refunded to the taxpayer; provided that no refunds or payments on account of the credits allowed by this section shall be made for amounts less than \$1.

"If in any taxable year the annual amount of certified credits reaches \$7,500,000 in the aggregate, the Department of Agriculture shall immediately discontinue certifying credits and notify the Department of Taxation. In no instance shall the Department of Agriculture certify a total amount of credits exceeding \$7,500,000 per taxable year. To comply with this restriction, the Department of Agriculture shall certify credits on a first come, first served basis.

"Agricultural business" means any person with a commercial agricultural, silvicultural, or aquacultural facility or operation, including: (1) The care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; (2) The planting, cultivating, harvesting, and processing of crops; and (3) The farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that the principal place of the agricultural business is maintained in the State and more than fifty per cent of the land the agricultural business owns or leases, excluding land classified as conservation land, is important agricultural land.

"Qualified agricultural costs" means expenditures for:

- (1) The plans, design, engineering, construction, renovation, repair, maintenance, and equipment for:
 - (A) Roads or utilities, primarily for agricultural purposes, where the majority of the lands serviced by the roads or utilities, excluding lands classified as conservation lands, are important agricultural lands;

(B) Agricultural processing facilities in the State, primarily for agricultural purposes, where the majority of the crops or livestock processed, harvested, treated, washed, handled, or packaged are from agricultural businesses;

(C) Water wells, reservoirs, dams, water storage facilities, water pipelines, ditches, or irrigation systems in the State, primarily for agricultural purposes, providing water for lands, the majority of which, excluding lands classified as conservation lands, are important agricultural lands; and

(D) Agricultural housing in the State, exclusively for agricultural purposes; provided that:

(i) The housing units are occupied solely by farmers or employees for agricultural businesses and their immediate family members;

(ii) The housing units are owned by the agricultural business;

(iii) The housing units are in the general vicinity, as determined by the department of agriculture, of agricultural lands owned or leased by the agricultural business; and

(iv) The housing units conform to any other conditions that may be required by the department of agriculture;

(2) Feasibility studies, regulatory processing, and legal and accounting services related to the items under paragraph (1);

(3) Equipment, primarily for agricultural purposes, used to cultivate, grow, harvest, or process agricultural products by an agricultural business; and

(4) Regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.

"The Department of Taxation, in consultation with the Department of Agriculture, shall submit to the legislature an annual report, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2010, regarding the quantitative and qualitative assessment of the impact of the important agricultural land qualified agricultural cost tax credit.

"There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 2008-2009 for the Department of Agriculture to administer the important agricultural land qualified agricultural cost tax credit.

Loan Guaranty; Important Agricultural Lands; Agricultural and Aquacultural Loans

"Financing is also a critical component of the long-term viability of agriculture on important agricultural lands in the State. The legislature finds that it is in the public interest to assist agricultural producers in meeting their financing needs for projects that are located on important agricultural lands.

"The purpose of this part is to further implement Act 183, Session Laws of Hawaii 2005, by authorizing the chairperson of the Board of Agriculture to guarantee loans relating to agricultural projects located on important agricultural lands.

"Senate Bill 2646 amends Chapter 155, Hawaii Revised Statutes, by adding a new section to establish a loan guaranty on important agricultural lands for agricultural and aquacultural loans.

"From July 1, 2009, the chairperson of the Board of Agriculture may guarantee loans made by commercial lenders authorized to do business in this State, to agricultural producers for the purpose of developing and implementing agricultural projects; provided that the chairperson of the Board of Agriculture shall determine that: (1) The agricultural projects are located on lands designated as important agricultural lands pursuant to Part III of Chapter 205; and (2) The commercial lender has completed its due diligence in approving the loan, including ensuring adequate collateral.

"Any loan guaranty made pursuant to this section shall meet the following conditions:

- (1) For any loan that finances operating costs, the maximum term of the loan shall be ten years;
- (2) For any loan that finances capital improvement costs, the maximum term of the loan shall be twenty years;
- (3) The interest rate charged on any loan shall be one per cent below the commercial lender's prime rate for as long as the loan guaranty is in effect;
- (4) The loan guaranty may be up to eighty-five per cent of the outstanding principal amount of any single loan, but shall not include any fees or accrued interest associated with the loan or its collection; and
- (5) The total principal amount of the guaranteed portion of all loans outstanding at any time shall not exceed \$2,500,000.

"Agricultural producer" means a farmer, cooperative association, or landowner who derives at least fifty per cent of its gross income from agricultural or aquacultural activities.

"The Department of Taxation, in consultation with the Department of Agriculture, shall submit to the legislature an annual report, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2010 that provides a quantitative and qualitative assessment of the impact of the loan guaranty program.

Hawaii Water Plan

"Water is essential for productivity on agricultural lands. Senate Bill 2646 amends the Hawaii Water Plan in Section 174C-31 of the Hawaii Revised Statutes to ensure the availability of water on important agricultural lands. Section 174C-31, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

"(e) The department of agriculture shall prepare a state agricultural water use and development plan for agricultural uses in the State in accordance with chapter 167 and this chapter, and subsequently modify and update the plan as necessary. The state agricultural water use and development plan shall include but not be limited to a master irrigation inventory plan ~~which~~ that shall:

- (1) Inventory ~~the~~ public and private irrigation water systems;
- (2) Identify the extent of rehabilitation needed for each system;
- (3) Identify sources of water used by agricultural operations and particularly those on lands identified and designated as important agricultural lands under part III of chapter 205;
- (4) Identify current and future water needs for agricultural operations and particularly those on lands identified and designated as important agricultural lands under part III of chapter 205;

~~(5)~~ (5) Subsidize the cost of repair and maintenance of the systems;

~~(6)~~ (6) Establish criteria to prioritize the rehabilitation of the systems;

~~(7)~~ (7) Develop a five-year program to repair the systems; and

~~(8)~~ (8) Set up a long-range plan to manage the systems.

The commission shall coordinate the incorporation of the state agricultural water use and development plan into the state water projects plan.

(f) Each county water use and development plan shall include but not be limited to:

- (1) Status of water and related land development, including an inventory of existing water uses for domestic, municipal, and industrial users, agriculture, particularly agriculture on lands designated as important agricultural lands under part III of chapter 205, aquaculture, hydropower development, drainage, reuse, reclamation, recharge, and resulting problems and constraints;
- (2) Future land uses and related water needs; and
- (3) Regional plans for water developments, including recommended and alternative plans, costs, adequacy of plans, and relationship to the water resource protection and water quality plans."

Agricultural Processing Facilities; Permits; Priority

"Expediting the permitting process for agricultural processing facilities will further support farm operations in the State of Hawaii. Senate Bill 2646 amends Chapter 205 and Chapter 321 of the Hawaii Revised Statutes, by adding new sections to require any agency subject to these chapters that issues permits to establish and implement a procedure for the priority processing of permit applications and renewals, at no additional cost to the applicant, for agricultural processing facilities that process crops or livestock from an agribusiness; provided that the majority of the lands held, owned, or used by the agribusiness shall be land designated as important agricultural lands pursuant to this part, excluding lands held, owned, or used by the agribusiness in a conservation district.

Important Agricultural Lands; Public Lands

"Before December 31, 2009, the Department of Agriculture and the Department of Land and Natural Resources shall collaborate to identify public lands as defined under Section 171-2, Hawaii Revised Statutes that should be designated important agricultural lands as defined in Section 205-42, Hawaii revised Statutes and shall prepare maps delineating those lands. In making the designations, the departments shall use the standards and criteria of Section 205-44, Hawaii Revised Statutes.

"Beginning January 1, 2010, after receipt of the maps of public lands identified as important agricultural lands, the Land Use Commission shall designate the public lands as important agricultural lands and adopt the maps of those public lands.

Designation of Important Agricultural Land and Reclassification to Other Land Use Districts by Declaratory Order of the Land Use Commission

"Chapter 205-44, Hawaii Revised Statutes, defines the standards and criteria for the identification of important agricultural lands. Lands identified as important agricultural lands need not meet every standard and criteria listed below. Rather, lands meeting any of the criteria below shall be given initial consideration; provided that the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in Article XI, Section 3, of the Hawaii Constitution and the objectives and policies for important

agricultural lands in sections 205-42 and 205-43 of the Hawaii Revised Statutes.

"Section 205-44 of the Hawaii Revised Statutes lists that the standards and criteria to designate land as important agricultural lands shall be as follows:

- (1) Land currently used for agricultural production;
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (3) Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977;
- (4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- (5) Land with sufficient quantities of water to support viable agricultural production;
- (6) Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

"Senate Bill 2646 amends Chapter 205-44, Hawaii Revised Statutes to include a petition for a declaratory order submitted under Section 205-45, Hawaii Revised Statutes that seeks to both designate lands as important agricultural lands and reclassify lands in the agricultural district to the rural, conservation, or urban district, the lands shall be deemed qualified for designation as important agricultural land if the commission reasonably finds that the lands meet at least the criteria of "(5) Land with sufficient quantities of water to support viable agricultural production" and "(7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity" of this section. Therefore, when using this declaratory incentive, the criteria for designating important agriculture lands is much stricter than designating important agricultural lands without the declaratory incentive where a petitioner can basically use only one criterion. The farmers felt that of the eight criteria in Chapter 205-44, Hawaii Revised Statutes, land with sufficient quantities of water and land that contributes to maintaining a critical land mass were the most important for agricultural productivity.

"Prior to the Land Use Commission considering a petition for a declaratory order to designate important agricultural land in combination with the reclassification of agricultural land to the rural, urban, or conservation district, the petitioner shall submit to the commission a certification issued by the Department of Agriculture as to the quality of the land for which designation as important agricultural land is being sought.

"The Land Use commission may include reasonable conditions in the declaratory order. The declaratory order is an incentive for landowners to designate their lands as important agricultural lands because under the Hawaii Administrative Rules Title 15, Chapter 15, Subchapter 14, Section 15-15-103, the Land Use Commission may, but shall not be required to, conduct a hearing on a petition for a declaratory order. However, a contested hearing can be requested. Any petitioner or party in interest who desires a hearing on a petition

for a declaratory order shall set forth in detail in the request the reasons why the matters alleged in the petition, together with supporting affidavits or other written briefs or memoranda or legal authorities, will not permit the fair and expeditious disposition of the petition, and to the extent that the request for a hearing is dependent upon factual assertion, shall accompany the request by affidavit establishing those facts. Further, under Hawaii Administrative Rules Title 15, Chapter 15, Subchapter 7, Section 15-15-75, parties to proceedings to amend land use district boundaries may obtain judicial reviews thereof in the manner set forth in Section 91-14, Hawaii Revised Statutes.

"A farmer or landowner with lands qualifying under Section 205-44, Hawaii Revised Statutes may file with the commission a petition for declaratory order to designate the lands as important agricultural lands. The petition may be filed at any time in the designation process. Within this same petition for declaratory order, the petitioner may seek a reclassification of land in the agricultural district to the rural, urban, or conservation district, or a combination thereof; provided that:

- (1) The land sought to be reclassified to the rural, urban, or conservation district is within the same county as the land sought to be designated as important agricultural lands;
- (2) If the reclassification of the land is proposed to the urban district, that reclassification to urban is consistent with the relevant county general and community, development, or community development plans; and
- (3) The total acreage of the land sought to be designated or reclassified in the petition complies with the following proportions:
 - (A) At least eighty-five per cent of the total acreage is sought to be designated as important agricultural land; and
 - (B) The remainder of the acreage is sought to be reclassified to the rural, urban, or conservation district.

"The Land Use Commission may grant declaratory orders pursuant to this section before the commission receives from any county a map delineating recommended important agricultural lands.

"A petitioner granted a declaratory order that designates important agricultural land, whether or not combined with the reclassification of land to the rural, urban, or conservation district, shall earn credits if the amount of land reclassified to the rural, urban, or conservation district is less than fifteen per cent of the total acreage of land subject to the order. The credits shall equal the difference between the following, rounded to the nearer tenth of an acre: (1) The number that is fifteen per cent of the total acreage of land subject to the order; less (2) The amount of the petitioner's land that is reclassified from the agricultural district to the rural, urban, or conservation district by the declaratory order.

"A petitioner with credits earned within a county may petition the Land Use Commission for a declaratory order to reclassify any of the petitioner's other land in the same county from the agricultural district to the rural, urban, or conservation district until the credits are exhausted or expired. The "petitioner's other land in the same county" means land owned by the petitioner that is in the same county as the land designated or reclassified under the petition. The commission may issue the declaratory order if it finds that the land is suitable for reclassification in accordance with Section 205-2, Hawaii Revised Statutes and that the reclassification is consistent with the relevant county general and community, development, or community development plans. The petitioner may petition for such reclassification until all of the petitioner's credits are exhausted. Any unexhausted credits shall expire and become unusable ten years after the granting of the declaratory order that designated the important agricultural land and, if applicable, reclassified land to the rural,

urban, or conservation district. A petitioner with unused and unexhausted credits shall not transfer the credits to another person.

"The Land Use Commission may grant declaratory orders pursuant to this section before the commission receives from any county a map delineating recommended important agricultural lands.

"Land designated as important agricultural land pursuant to a declaratory order that both designates land as important agricultural land and reclassifies land in the agricultural district to the rural, urban, or conservation district, or a combination thereof pursuant to this section shall be re-designated only with the prior authorization of the Legislature. The authorization shall be expressed by the adoption of a concurrent resolution approved by a two-thirds vote of each house of the Legislature voting separately. When making its decision, the Legislature shall consider the standards and criteria in Section 205-50, Hawaii Revised Statutes.

"A farmer or landowner with qualifying lands may also petition the Land Use Commission to remove the "important agricultural lands" designation from lands if a sufficient supply of water is no longer available to allow profitable farming of the land due to government actions, acts of God, or other causes beyond the farmer's or landowner's reasonable control. If the "important agricultural lands" were designated by a declaratory order in combination with the reclassification of land in the agricultural district to the rural, urban, or conservation district pursuant to Section 205-45 of the Hawaii Revised Statutes, the commission shall not remove the designation unless the legislature provides prior authorization by adoption of a concurrent resolution in accordance with Section 205-45, Hawaii Revised Statutes.

"In conclusion, Senate Bill 2646 is a historical bill that provides incentives for landowners to designate lands into important agricultural lands and incentives for farmers to have productive and profitable farm operations. In addition, it requires the Department of Agriculture and Department of Land and Natural Resources to jointly identify the state-owned lands that should be designated as "important agricultural lands."

"This legislation will begin the process of identifying and protecting our most important agricultural land. It is my hope that thousands of years from now, agricultural lands in Hawaii will be an important part of our economy, culture, and way of life. Thank you."

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

"Mr. Speaker, I have a possible conflict of interest. I'm a realtor that sells ag lands," and the Chair ruled "no conflict."

Representative Souki continued in support of the measure with reservations, stating:

"Thank you very much. And I was going to vote on this 100%, but because I heard it's stricter than the laws now, I'm going to vote with reservations. But my accolades to the Chairman and the Vice Chairman for a job well done. Thank you."

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

"Thank you very much, Mr. Speaker. In support with some brief comments. Mr. Speaker, this measure is critical on a personal note for many farmers that are in my district that I represent. The incentives are critical to the survival of their trade. Mr. Speaker, some of them own their lands and they are having a difficult time to continue to farm. These incentives, again, are very, very critical.

"Also, I think that we have to remember that preserving the land and creating a timeline that is a lot faster and quicker will help us survive this economic downturn, and I think that's a critical point."

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

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

"Thank you Mr. Speaker, in opposition. I just have some brief comments. If I could have the words of the speaker from Hanalei adopted as my own. And I would also like to note one other concern. Again, there are some good provisions in this bill, but one thing that does concern me is the refundable tax credit that we have in this bill. You know, at a time when we're looking at a shrinking budget, a refundable tax credit that we don't know what the fiscal implications are, this bill could be just labeled 'corporate welfare' and that's what concerns me. Thank you, Mr. Speaker."

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

"I stand in strong support, Mr. Speaker. I'll just say a few quick words. I know there has been a lot said on the Floor as well as in a lot of emails, and this is a tough issue, as you know. It's been around for pretty much 30 years. When I first came into office here in 2005, we passed Act 183, and it had a lot of things in it. One of those things were incentives. It required incentives, in fact. And some of us had a concern because that incentive process ensured that we had at least one, if not a few more hurdles to go. Act 183 requires financial or other incentives, and it also requires county mapping. The concern was at the time that if we wait a lot longer, a lot of the prime ag land could be reclassified before then. In my mind, IAL is about securing the important, prime ag land.

"I've had many discussions, in fact, long discussions with the former Maui County Council Chairman, who is our colleague from Wailuku, who is not here today, who sat on the LESA Commission. And we had a very long discussion about how government can proceed with this and what was the original intent. In my mind, the intent is to protect the prime ag lands, a lot of it out of sugar and pineapple, which are of A and B soil, have water, but best of all, are graded and ready to go.

"The prime ag land is the same land that's also good to grow houses. And I think that hopefully what the Members will take into consideration is over the last 20 years there has been a reclassification of 40,000 acres of ag land. It hasn't been the C, D and E lands. It's been the A and B, because that is the easiest land to put houses on.

"And so while I've seen some emails and some concerns about how this is just for big land owners. Yes, the law requires us to provide incentives, and we have two. One is the 85-15, which is for landowners and farmers. We live in America. We have private property. We're not going to get around it. I think some people want to just force landowners to keep their land in ag forever. It's not their money. It's not their dime, but they can profess, and that's up to them. Urbanization will continue with or without this bill. This is not going to speed it up. This is rather to offer a carrot to landowners and say, if you designate into IAL, we will give you reclassification through a public process. I have here Subchapter 14 of the LUC. As the Representative from Waikele said, anybody can request for a public hearing, and then it goes into Subchapter 7, which is a contested process.

"Secondly, it is not in the law, and if you go through this process, it requires if you want to take it out of IAL, you need a 2/3rds vote through Concurrent Resolution of the House and the Senate. You know somebody willing to go down this road, good luck in trying to take it out. Because that is a million times more difficult than what the present law calls for which is 2/3 of the LUC.

"I think we have to work with all the stakeholders. We cannot just stick our finger and 'pooh pooh' landowners. We have to meet them at the table. We have to meet the farmers at the table, and try and come up with some agreement to try and get everybody to move forward on this. Again, redevelopment, reclassification is going to happen with or without this bill, whether we like it or not. And that's the sad part. This will help and provide a carrot so people do not.

"Also, there is the \$7.5 million tax credit, which I think is going to be very good for farmers. That is an incentive for farmers. You can use it to take credits on your equipment, and on a lot of things in a farming operation. As well as added value, which is a big thing to make farming successful. But again, I just ask the Members to keep an open mind and try and support this bill because it will proceed with the designation of important ag land that will help make Hawaii sustainable. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2646, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Final Reading by a vote of 29 ayes to 18 noes, with Representatives Belatti, Berg, Carroll, Evans, Green, Hanohano, Lee, Luke, McKelvey, Morita, Nishimoto, Saiki, Shimabukuro, Takai, Takamine, Takumi, Thielen and Wakai voting no, and with Representatives Bertram, Nakasone, Sonson and Waters being excused.

Conf. Com. Rep. No. 178-08 and H.B. No. 1412, HD 1, SD 1, CD 1:

Representative Caldwell moved that the report of the Committee be adopted and that H.B. No. 1412, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker I rise in support but with just a slight reservation on this bill. Mr. Speaker, the purpose of this bill is to enhance the ability of the Department of Taxation to upgrade its computer system and streamline related operation procedures. I don't think anyone can disagree that we should support our Department of Taxation to upgrade their computer systems.

"I guess my one concern here is that we're beginning to lay the foundation for the streamlined sales and use tax agreement, and I have to say that I don't really understand the mechanics of this streamlined sales and use tax agreement. What I have heard is that it's a internet sales tax. And I think that before we continue to go down that road of enacting this tax, and I'm sure we will have a long and vigorous debate when we come to that enabling legislation. So I guess that's just my slight reservation with this bill. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I have the same reservation that the previous speaker had and would like her words inserted in the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

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

Representative Marumoto's written remarks are as follows:

"My reservations on HB 1412 are essentially the same as those regarding SB 2829, Relating to Taxation. I am concerned about the cost of implementing the Streamlined Sales Tax Project under Act 3, Special Session Laws of Hawaii 2005, and related software upgrade. The cost in preparation of this program would be expensive and is best outlined in a letter from the Dept. of Taxation on SB 2829 SD 2 HD 2 CD 1, that I proffer to explain my reservations on this measure."

LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO. (808) 587-1510
FAX NO. (808) 587-1560

April 25, 2008

VIA FACSIMILE

Senator Fukunaga, Chair
Senator Baker, Co-Chair
Senator Chun Oakland, Member
Senator Hooser, Member

Representative Yamashita, Co-Chair
Representative Marcus Oshiro, Co-Chair
Representative Karamatsu, Member
Representative Wakai, Member
Representative Marumoto, Member

RE: CONFERENCE COMMITTEE COMMENTS

BILL NUMBER: SB 2829 SD 2 HD 2 Proposed CD 1
TITLE: RELATING TO TAXATION

The Department understands that the Senate Conference Committee will propose a **CD 1** that incorporates the **SD 2**, adopting amendments to Hawaii tax laws to implement the streamlined sales and use tax (SSTP) agreement, if and when federal legislation mandating SST is enacted.

Until the federal legislation passes, the proposed CD 1 is premature because the State does not know what Hawaii law changes will be required by the federal law

Regardless of whether ITIMS is passed, the Department respectfully brings to this Committee's attention the following:

DOTAX Go-Live Date - Dependent on Federal Legislation

In order to implement SSTP on the federal effective date, the Department would need at least 12 months after the federal effective date to implement SST. The following resources are required:

- o An appropriation of \$10,825,729* (does not factor in inflation), and
- o Establishment of 20 permanent full-time equivalent positions**.

HSST Federal Legislation Effective 1/1/2010 – DOTAX Go-Live Date 1/1/2010

In order to implement SSTP effective 1/1/2010, the Department must be given the following resources starting FY09 (starting 7/1/08):

- o An appropriation of \$10,825,729*, and
- o Establishment of 20 permanent full-time equivalent positions**.

Conference Committee Comments
 SB 2829 SD 2 HD 2
 April 25, 2008
 Page 2 of 2

IF SST Federal Legislation Effective 1/1/2011 – DOTAX Go-Live Date 1/1/2011

In order to implement SSTP effective 1/1/2011, the Department must be given the following resources starting FY10 (starting 7/1/09):

- o An appropriation of \$10,825,729*, and
- o Establishment of 20 permanent full-time equivalent positions**.

Without the above stated resources, the Department will not be able to implement SSTP.

* Please see worksheet below

** Include 2 positions to reinstate 2 DTCA positions being cut this session.

Description	FY2009 Cost (\$)
Vendor Cost	6,337,440
One-time DOTAX Cost	923,734
Total One-time Costs	7,261,174
DOTAX Annual Recurring Cost	2,259,944
New FTEs	18
Total Cost	9,521,118
<hr/>	
DOTAX's Budget (Reinstatement)*	1,354,611
FTEs	2
<hr/>	
Total Cost to Administer SST	10,875,729
Total FTEs	20
Note: *Assumes DOTAX existing budget and supplemental budget request are approved.	
Reinstatement of: (1) 4% discretionary fund: \$1,026,979; (2) Reduce positions/funds - vacancies: \$123,462; and (3) County surcharge production support: \$233,000.	

If you have any questions or concerns regarding this legislation, please contact me at your convenience at 587-1513 or on my cell phone at 620-5393.

Sincerely,

 KURT KAWAFUCHI
 Director of Taxation

- C: Senator Colleen Hanabusa, Senate President
 Senator Donna Mercado Kim, Senate Vice President
 Senator Brian Taniguchi, Chair, Senate Committee of Judiciary and Labor
 Senator Fred Hemmings, Senate Minority Leader

Speaker Calvin Say, Speaker of the House
 Representative Pono Chong, Vice Speaker
 Representative Tommy Waters, Chair, House Committee of Judiciary
 Representative Lynn Finnegan, Minority Leader

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1412, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF TAXATION'S BENEFITS-FUNDED REVENUE-GENERATING COMPUTER INITIATIVES.," passed Final Reading by a vote of 47 ayes, with Representatives Bertram, Nakasone, Sonson and Waters being excused.

At 2:33 o'clock a.m., the Chair noted that the following bills passed Final Reading:

- S.B. No. 1804, SD 2, HD 2, CD 1
- S.B. No. 2083, SD 2, HD 1, CD 1
- S.B. No. 2423, SD 2, HD 2, CD 1
- S.B. No. 2915, SD 2, HD 1, CD 1
- S.B. No. 2646, SD 2, HD 2, CD 1
- H.B. No. 1412, HD 1, SD 1, CD 1

At 2:33 o'clock p.m., Representative McKelvey requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:38 o'clock p.m.

At this time, the Chair stated:

"Members of the House, at this point it's 2:40, we've got two more pages to go along with the Yellow Action Sheets and the White Action Sheets. And at this time the Chair recognizes Representative Caldwell for the motion once more."

LATE INTRODUCTION

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

Representative Caldwell introduced Professor Denise Antolini of the University of Hawaii Law School.

UNFINISHED BUSINESS

H.B. No. 2293, HD 1, SD 2, CD 2:

Representative Caldwell moved that H.B. No. 2293, HD 1, SD 2, CD 2, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in strong support of this measure. I'll ask for permission to insert written comments. A few comments, Mr. Speaker. First of all thank you, and thanks to this body. This is a culmination of almost 13 years of work. When I first got elected in 1994, the concerns regarding the development of the Galbraith lands north of Wahiawa was one of the first items that I was put to task on by my predecessor, Senator Robert Bunda and Senator Hagino.

"At that time we were facing a situation where the Galbraith Trust was seeking to develop about 900 acres on prime ag land and develop a project that included a golf course, shopping mall, an industrial area, and about 3,100 homes. Even more offensive to the community was the fact that the golf course would actually encircle one of our most historic Hawaiian sites, Kukaniloko. But because of the wisdom of my forbearers and at the time was Governor Waihee, went into a process by which land exchange cut off any further development.

"Well, it's been 13 years since then. I'd like to thank, just on behalf of my community, which is the gateway to the country, so we can keep the country, country, to thank them. And again Mr. Speaker, thank you very much. And I'd also like to thank a Representative that will be leaving us later this day. Back in 1995, my first Session, he helped me shepherd through a Resolution, and that's the Representative from the town of Honokaa on the Big Island. It was through this Resolution that we were enabled to bring the parties together and begin the process of building larger community support for not only the Galbraith lands and Kukaniloko, Poamoho camp, but also Lake Wilson as a reservoir and a provider of irrigation waters for the North Shore farmers. Thank you, Mr. Speaker."

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

"Mr. Speaker, please accept these written comments as additional comments in support of House Bill No. 2293, Conference Draft 1, RELATING TO AGRICULTURE.

"House Bill No. 2293, Conference Draft 1, RELATING TO AGRICULTURE. This bill would establish statutory mechanisms that will allow the Agribusiness Development Corporation to acquire specific agricultural lands located in Central Oahu that are owned by the successors of the Estate of George Galbraith (Galbraith Estate). \$13,000,000.00 in General Obligation Bonds is provided for the purchase of these lands through the 2008 Supplemental Appropriations Act of 2008.

"Mr. Speaker, as you and many others know, for the past twelve years I have spoken at length on the need for the State to acquire the lands owned by the Galbraith Estate in Central Oahu. As I have stated previously, acquisition of the Galbraith Estate is essential for:

- (1) The protection and preservation of our native Hawaiian culture;
- (2) The viability of our agricultural industry and continued efforts to make our State more self-sustainable; and
- (3) The preservation of the health, welfare and safety of the people of Central and North Shore Oahu.

"From a public policy standpoint, the acquisition of the Galbraith Estate, which this bill will facilitate, will greatly enhance Wahiawa's role as a "gateway" between town and country. As noted in the Central Oahu Sustainable Communities Plan of February 2002, the City and County of Honolulu's Department of Planning and Permitting asserted the following based on the views of the communities in the area:

"Wahiawa has historically been the boundary between the urban growth of Central Oahu and the broad vistas of the agricultural and rural areas of the North Shore. This role should continue with Lake Wilson and Kaukonahua marking the northernmost extent of urban development in Central Oahu. Appropriate gateway entry features should be established on Kamehameha Highway at both the northern and southern entrances to Wahiawa."

"The acquisition of the Galbraith Lands is a major step that will ensure that these fertile lands will always remain for agriculture, and act as the border between the urban and rural areas of Oahu. In my view, there is no other action this Legislature can take that is more important to ensure that the "country" remains "country".

I. Background

"The Estate was established pursuant to the will of George Galbraith, which was admitted to probate on March 25, 1905. Due to considerable ambiguity on the intention and validity of the will, the will was litigated extensively. In Fitchie v. Brown, 18, Hawaii 52 (November 1, 1906), the Hawaii Supreme Court held that the will created a trust to accumulate unapplied income; that the lives being listed in the will were the named annuitants; and that the trust estate would be distributed twenty-one years after the death of the last surviving annuitant listed in the will. The Supreme Court of the United States upheld this interpretation in 211 U.S. 321 (1908).

"Subsequent litigation established that the heirs of life annuities took their shares of the annuities by right of representation; that annuities could be sold in fee; and that the final holders of the annuities, at the time of distribution, would take a per capita share of the estate. Hawaiian Trust v. Galbraith, 22 Hawaii 78 (1914); Hawaiian Trust Co. v. Galbraith, 24 Hawaii 174 (1919).

"On April 26, 1986, Arthur Cathcart, the last named annuitant in the George Galbraith will, died. Pursuant to the terms of the will, the Estate was to terminate on April 26, 2007. However, because of the numerous interpretations of the will and the passage of time, a large number of minuscule life annuities were created precipitating considerable difficulty in determining who some of the annuitants are, and how the corpus would be distributed among the beneficiaries.

"Accordingly, although the termination date of the Estate has passed, the trustees have not yet sold the landholdings while these and other legal issues are addressed. Furthermore, Chapter 517, Hawaii Revised Statutes, authorizes the trustees of an estate or trust, with the approval of the court, to sell the real property of the state or trust beyond the expiration date of the estate or trust.

"The corpus of the Galbraith Estate currently includes twenty individual and contiguous parcels having a combined area of approximately 2,000 acres situated north of Wahiawa – a significant assemblage of some of the most fertile agricultural land in the State. These lands were historically leased to pineapple growers on a long-term basis and have not been available for sale for more than 100 years. In December of 2003, the Del Monte Corporation, unexpectedly decided to consolidate its Oahu pineapple operations to the Kunia Plantation lands, and quit its lease with the Galbraith Estate. This would later have the additional affect of jeopardizing the homes of over 60 families and 300 residents of Poamoho Camp. Fortunately, through strong statewide community support, ILWU-Union advocacy, local political will, and the assistance of both First Hawaiian Bank and Peter Savio, the residents were granted a reprieve and chance to remain and possibly own their present homes.

"Since 2003, however, the Del Monte pineapple fields have been plowed under and the lands have remained fallow and California grass and other scrubs and small trees cover the landscape. Recently some North Shore farmers have commented that maintenance efforts need to be improved or the cost to remove large scrubs and trees will be expensive.

II. Lake Wilson Dam

"The Dam, originally constructed in 1905 and 1906, is owned by the Wahiawa Water Company, Inc., a subsidiary of Dole Foods Company, Inc. (formerly known as Castle and Cooke, Inc.) The land beneath the Dam and Lake Wilson are owned by the Galbraith Trust and Dole Foods Company, Inc. and is split down the middle following the old stream bed, such that the Galbraith Trust owns the eastern half, and the western half is owned by Dole Foods Company, Inc. About 140 acres of Galbraith Trust lands are lands beneath Lake Wilson, at the dam site, and gulch lands adjacent to Lake Wilson and leased to Dole Foods Company. The Galbraith Trust may also be receiving rent from the Dole Foods Company, for its use of water based upon the proportional ownership and share of the lands under Lake Wilson. Hence, while the Galbraith Estate intends to sell that land upon the termination of the Galbraith Estate, Lake Wilson remains an agricultural irrigation asset of the other half-owner of the land under the Lake – Dole Foods Company, Inc.

"Pursuant to House Concurrent Resolution No. 88, House Draft 2, Senate Draft 1, adopted by the 18th Legislature, Regular Session of 1995, the Wahiawa Reservoir Task Force (Task Force) was created to study the present and potential uses of the Wahiawa Reservoir, also known as Lake Wilson, including recreational uses, fishing and boating, wastewater storage and irrigation reuse, irrigation, and flood control. The Task Force was also directed to specifically examine the conclusions and recommendations made in the report entitled Dam Safety Inspection, Wahiawa Dam, Oahu, Hawaii (Phase I Report) dated January 1995. The inspection was conducted in accordance with the National Program of Inspection of Dams. Furthermore, the Task Force was directed to examine and make recommendations on the party or parties who will be ultimately responsible for the operation, maintenance, and liability of the dam.

"According to the American Society of Civil Engineers, the earthen Wahiawa dam on Kaukonahua Stream that creates Lake Wilson is classified "high hazard", not because of structural or functional deficiencies, but because of its location above the Waialua and Haleiwa communities. A failure of the Wahiawa dam could cause massive loss of life, injuries, and property damage to downstream areas throughout the communities of Waialua and Haleiwa.

"In its report to the 1996 Legislature, the Task Force provided cost estimates on the repairs needed at Wilson Dam. The Task Force estimated that the cost of replacing Wilson Dam would cost between \$30 million to \$40 million in 1995 dollars. Also, citing studies by R.M. Towill Corporation, the Task Force estimated the cost of major repairs to be \$13.3 million in 1995 dollars.

"The Towill Study included the following comments:

- (1) Replacement would be impractical because of site constraints;
- (2) Cost to implement report (Dam Safety Inspections, Wahiawa Dam, Oahu, Hawaii for DLNR, by Ernest K. Hirata & Assoc., Oct 1994) – recommendations would be less than \$5 million; and
- (3) \$11 million (\$13.3 million in 1995 dollars) upgrade is substantial, pretty much good as new condition.

"While the State has had discussions with the Galbraith Estate and Dole Foods Company, Inc. on the possible "gifting" of the landholdings under the Lake and Dam, the imminent termination of the Galbraith Estate and the fiduciary responsibility of the trustees to obtain the maximum return for beneficiaries have greatly

compounded the complexity of the negotiations between the State, Galbraith Estate, and Dole Foods Company, Inc. Additionally, the tragic March 14, 2006, Kaloko Dam breach and various lawsuits had heightened the liability concerns of both private and government owned and controlled dams and reservoirs. In any case, it cannot be overstated that at present, the State of Hawaii bears some responsibility for the safety of the community and must ensure that the current owners and operators of the Dam maintain the integrity of the structure to the highest know standards. Likewise, the State of Hawaii, through the current Administration should work with area residents, farmers, landowners, recreational users, and State, County, and Federal officials to insure that the multiple uses are enhanced and supported. But, let us also not forget that surface water and the means to store and transport it is an essential component of supporting the preservation and use of agricultural lands north of Wahiawa and on the North Shore. If we are to make meaningful and long-term commitment to the protection of these lands and their ability to produce crops for local use and consumption, then the Lake Wilson Dam and Lake Wilson are great investments of any public monies expended.

III. Lake Wilson

"The Wahiawa Reservoir Task Force also evaluated and made recommendations on the current use and development of a freshwater fishery at Lake Wilson for public fishing, boating, and recreation. As many know, since 1957, the Department of Land and Natural Resources (DLNR) has managed Lake Wilson through an operative agreement with Castle & Cooke, Inc. as the Wahiawa Public Fishing Area. Lake Wilson is the largest and most heavily fished freshwater body in the State and is open to the public about 360 days a year. Freshwater boaters have over 350 acres to fish and shoreline anglers have several miles to cast their rod and reel or dunk their fishing pole. Favored species include, tucunare (peacock bass), largemouth bass, smallmouth bass, shad, blue gill, Chinese catfish, channel catfish, carp, and tilapia. Lake Wilson is a catch and release fishing area.

"In 1965, the State of Hawaii received the 70 acres of park land from the U.S. Army and in 1968, a boat ramp and parking lot was constructed by DLNR. Only about ½ or 30 acres are developable, as steep banks alongside Lake Wilson make for hazardous conditions. In 1978, the caretaker's residence, restrooms, additional parking, picnic tables, and landscaping were completed. In 1975, the Wahiawa Fresh Water Park Master Plan, DLNR, Division of State Parks, Koebig and Koebig, published and set forth several plans to develop footpaths, jogging/bike paths, picnic areas, overnight camp grounds, fishing piers, open recreation areas, and pavilion-comfort stations. According to the Report on a Request to Establish a Task Force to Study the Feasibility of Establishing a Freshwater Fishery at the Wahiawa Reservoir, February 2003, to make the minimal improvements described in the Master Plan would cost between \$3.5 and \$5.7 million.

"To this day, the only improvement made pursuant to the Master Plan was the 1999 construction of the lighted jogging and biking path. However, the community of Wahiawa has maintained its desire to develop greater use of this resource and remains open to public-private partnerships from both local and national outdoors and scouting organizations.

III. Kukaniloko

"Native Hawaiians have significant interest in the lands owned by the Galbraith Estate which go beyond the agricultural value of the land. Their interest encompasses their significant cultural values. The spiritual site known as Kukaniloko is located in the area. The overall significance of this site, which extends beyond the immediate site of Kukaniloko, commands one of the highest protocols and therefore is referred to as a wahi kapu (sacred and kapu space). Native Hawaiian practitioners continue to access Kukaniloko, serving as a living facet of Native Hawaiian livelihood and perpetuation.

"Kukaniloko Birthstones is one of the most significant cultural sites on Oahu and in Hawaii. Recognized as a birthing site for the alii, this site is associated with the birth of several important Hawaiian chiefs. One's birth at Kukaniloko legitimized their high ranking and established their right to be leaders of society. Consequently, chiefs with ties to the Oahu lineage sought to have their children born at Kukaniloko.

"After birth, the child was taken to nearby Hoolonopahu Heiau where the umbilical cord was cut. The only other birthing site of high ranking alii recorded in traditional history is located at Holoholoku, Wailua, Kauai.

"The significance of Kukaniloko is recorded as follows on the nomination form for the National Register of Historic Places:

"Along with Holoholoku on Kauai, Kukaniloko is one of only two places specifically designated for the birth of high ranking children. Kukaniloko is particularly celebrated in recorded traditions as it is repeatedly called upon in commemorating the life-histories of important paramounts in the chiefly lines of Oahu. In ancient Hawaii, genealogical descent from the gods gave chiefs their lofty status and hence, established their right to be leaders of society. Birth within the ritual setting of Kukaniloko served to legitimize this genealogical descent and their godly status was further enhanced if the rituals and prohibitions performed at birth were completed successfully. The Oahu and Kauai chiefly lineages were traditionally known for their antiquity and purity and it was said that chiefs from Hawaii and Maui often sought greater prestige for their lineages by marrying those who had strong ancestral ties to exalted lineages. Some have speculated that Kukaniloko on Oahu and Holoholoku on Kauai helped maintain the coveted purity of these genealogical lines and, as such, the significance of Kukaniloko and the events that took place there reach far beyond the island of Oahu."

"In most traditions, the Kukaniloko birthing site is said to have been established by Nanakaoko at the birth of his son Kapawa. Kamakau provides a date of 1100 A.D. for Kukaniloko when he records the birth of Kalanimanua. However, other dating by genealogical lines suggests that Kapawa dates to the 1300s and Kalanimanua to the 1600s. Fornander associates Kapawa with the traditions of Paao who is said to have brought a chief named Pili Kaaiea whom he installed as ruler of Hawaii Island after deposing Kapawa. Using the genealogical lines of Hawaii Island, this would place the establishment of Kukaniloko in the 1400s.

"Numerous chiefs and chiefesses are believed to have been born at Kukaniloko into the 17th century. Mailikukahi and Kakuhihewa were highly celebrated Oahu paramount chiefs whose reigns were marked by peace and great prosperity. In discussing Kukaniloko, Fornander notes that "so highly were those dignities and privileges prized, even in later times, when the ancient structure and surroundings had fallen in decay, that Kamehameha I, in 1797, previous to the birth of his son and successor, Liholiho, Kamehameha II, made every arrangement to have the accouchement take place at Kukaniloko."

"Associated with Kukaniloko was Hoolonopahu Heiau. The sacred drums that announced the birth of an alii were kept at this heiau but nothing remained of the heiau in the 1920s as a result of the pineapple cultivation. Several oral informants suggest that several stones from the heiau have been incorporated into the Kukaniloko complex.

"The name Kukaniloko is translated as "the sound or resonance rises from within". Several sources refer to Kukaniloko as the name of a chief or chiefess. Fornander says a chiefess bore the name and from her line were born powerful alii. Kukaniloko is also recorded as an important puuhonua (place of refuge) on Oahu.

"In recognition of the site's cultural and historical significance, Kukaniilo'ko was placed on the National Register of Historic Places (Site No. 218) in 1972 and the Hawaii Register of Historic Places in 1994. The site remains significant to the Hawaiian community today with a growing need to nurture a respect for the site.

"Because of the cultural and historical significance of the Kukaniilo'ko Birthstones site, the State acquired a 5-acre parcel in January 1992. This parcel includes the 0.5-acre Kukaniilo'ko Birthstones site, a 4.5-acre buffer around the complex, and a road easement from Kamehameha Highway. The State-owned property is identified by TMK:7-1-01:4. The 0.5-acre historical site is marked by a grove of eucalyptus and coconut trees surrounded by an expanse of pineapple fields. Within the 0.5-acre area is a concentration of about 180 stones, many having surface depressions and fluted edges with a coating of red dirt. According to the Department of Land and Natural Resources, Division of State Parks, these surfaces are probably a combination of natural weathering and human craftsmanship over many generations.

"Another aspect of the Kukaniilo'ko Birthstones site, is the unobstructed view of the Waianae Range and the prominent peaks such as Kolekole and Kaala. From Kukaniilo'ko the setting of the sun at various peaks, such as Puu Hapapa, Puu Kumakalii, and Puu Pane, and Kalena and Maili, and Mokuleia, can be observed and according to some historians used as a calendar. Some of the stones at the Kukaniilo'ko also may have been used as navigational tools for ancient voyagers, whose voyages may have been charted by the Waianae Range peaks and starlit sky. I even recall several years ago, attending a pre-dawn observation of the sun rising and its first light falling on several stones at Kukaniilo'ko and the interesting shadows and images that were cast. The image of a petroglyph illuminated by the morning sun still gives me goose bumps.

"The site was originally set aside and fenced by Mr. W. Goodale of the Wahiawa Agricultural Company in 1909. The Daughters of Hawaii began maintaining the site in 1918 but did not finalize an agreement with the Galbraith Estate until 1925. In 1951, the site reverted back to the Galbraith Estate and the Hawaiian Civic Club of Wahiawa became active in the maintenance of the site. While the Division of State Parks was given jurisdiction of the site for management and maintenance in 1992, the community continues to provide assistance with site maintenance, management, and interpretation. In 1997, State Parks entered into a curatorship agreement with the Hawaiian Civic Club of Wahiawa and the Friends of Kukaniilo'ko. These organizations are recognized as the curators of Kukaniilo'ko Birthstones State Monument and provide guided interpretive tours to those interested in learning more about this very special and important state monument.

"Mr. Speaker, we are at a place in history where all of the stars are aligned. The last time these lands were available for acquisition:

- People rode horses to get to work;
- Gas lamps instead of electric lights illuminated the night; and
- Theodore Roosevelt ran for the Presidency under the Bull Moose Party.

"When the last named descendent in the will of George Galbraith passed away in 1986, everyone knew that the Galbraith Estate would be dissolved twenty-one years later and the fate of the lands was uncertain. The community knew, however, that land speculators and investors were eyeing the lands for possible up-zoning and development. There was also talk circulating about the fiduciary responsibilities of the Trustees, the Hawaiian Trust Company, aka, Pacific Century Trust Company, and how they may be compelled to seek the highest and best use of the lands to maximize the trust corpus and proceeds to beneficiaries.

"In 1993, the community of Wahiawa faced the possibility of an 800-acre development called, "Wahiawa Lands Development" that would urbanize 800 acres of pineapple cultivation. There were to be built about 3,100 homes and an increase in the population of about

8,100 by year 2010. An 18-hole golf course, commercial, light industrial, and business center would also be developed. As one can imagine, a majority of the community opposed the development and found fault with the lack of detail for building design, energy efficiency, and impact upon water quality in Lake Wilson, and scenic views of the Waianae and Ko'olau Mountain Ranges. There were a lot of concerns raised regarding the impact such a development would have upon Kukaniilo'ko and the integrity of the site. Many were concerned about the overall impact it would have upon the rural communities of Wahiawa and Whitmore Village. The Wahiawa Neighborhood Board at its March 15, 1993 meeting voted to oppose the project.

"For that reason, the State tried desperately to preserve these lands. Yet the anticipated cost of acquisition served to hamper these efforts. To put these costs into perspective, the total property assessed value of the Galbraith Estate landholdings in Central Oahu, as determined by the City and County of Honolulu, was over \$100 million for taxable year 2006.

"As such, during 1993, the Legislature worked to facilitate a land exchange to preserve most of the Galbraith lands for agricultural uses. Credit should be given to my predecessor in the State House, Senator Robert Bunda, then Representative Robert Bunda, who initiated the preservation of the Galbraith Lands through a letter to then Governor John Waihee, regarding the possible exchange involving state owned lands at Kapolei for Galbraith lands, north of Wahiawa. In March of 1994, it was approved by the Board of Land and Natural Resources (BLNR) to hire appraisers and begin negotiations with the Galbraith Estate to consummate a land exchange of about 572 acres of State land in Kapolei for about 2,200 acres of Galbraith lands. In concert with this action, the legislature, led by then Representative Robert Bunda and Senator Gerald Hagino, obtained passage and enactment of Act 177, SLH, 1994, wherein approving of a land exchange between the State of Hawaii and the Galbraith Estate. It had a repeal date of June 30, 1996.

"When I got elected in 1994, one of the first things I did was review all the prior legislative proposals and Acts affecting Wahiawa and the surrounding areas. Hence, it was brought to my attention that Act 177, SLH, 1994, needed to be amended and working with Senator Bunda, the Legislature passed SB 1650, but it was vetoed by then Governor Benjamin Cayetano, because the Environmental Protection Agency (EPA), on December 16, 1994, created the Del Monte Superfund Site, which may have made the State liable for any clean-up cost as the owner of lands from the land exchange. Needless to say, the community was upset and disappointed by Governor Cayetano's veto as the locus of the EPA's concern was the Kunia Camp Well at the Kunia Camp, 2 to 3 miles down slope of the Galbraith lands. Still, the community did not give up and we never lost hope and remained vigilant to protect the lands from any development.

"In 1996, after much consultation and discussion with then, Attorney General Margery Bronster, the Legislature passed HB 4074, HD1, SD1, CD1 and on June 18, 1996, Governor Cayetano signed into law, Act 255, SLH 1996, which essentially allowed the Department of Land and Natural Resources to enter into negotiations for a land exchange with the Galbraith Trust. To address the concerns of the attorney general, it contained a clear prohibition against any exchange if the private lands are part of any EPA Superfund Site. Act 255, SLH 1996, however, did not have a repeal date and for the remainder of the Cayetano Administration, through January of 2004, I attended numerous meetings and workshops on remedial investigations, feasibility studies, and the Record of Decision Process, and in time, learned much about the National Priorities List (NPL), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and the Superfund Amendments and Reauthorized Act of 1986 and similar Hawaii law. Discussion with the EPA and State Department of Health officials centered around possible "carve-out" of the Galbraith parcels as the Kunia Well and Camp was the focal point for the EPA.

"Finally, in January 2003, at the beginning of the Lingle-Aiona Administration, the EPA removed the Galbraith Lands from the National Priorities List, thereby clearing the way for an exchange in accordance with Act 255, SLH 1996. As such, during the 2004 Session, Representatives Magaoay, Lee, and myself co-introduced HB 1793, directing the Department of Land and Natural Resources and other appropriate state agencies to enter into negotiations with the Galbraith Trust for a land exchange. On April 26, 2004, HB 1793, HD 2, SD1, CD1, passed with 24 "ayes" in the Senate and with 49 "ayes" in House, but was vetoed by Governor Lingle on July 13, 2004. Her veto message read in pertinent part:

[T]his bill, directing the Board of Land and Natural Resources and other appropriate state agencies to acquire specified lands by means of exchange of public lands, appears to be the kind of special law prohibited under Section 5 of Article XI.

"The community of Wahiawa and the North Shore was astounded and upset by the Governor's decision and vague veto explanation. What made it even worse was the lack of any testimony by the Attorney General alerting anyone to the potential legal concern of the Governor. I simply thought it was an incorrect reading and application of the Hawaii Constitution and a great departure from prior Attorney General opinions' regarding the same lands since 1993 and through two previous attorney generals and their respective staff opinions. The recent 2008 Special Session and Hawaii Superferry legislation and current law suit regarding the same issue causes one to wonder whether the Governor really appreciated or understood the basis for her veto.

"In December 2007, just 5 months ago, a deal to purchase the Galbraith lands by a private developer fell through. According to a Honolulu Advertiser article, entitled "Sale of 2,100 acres on Oahu falls through", December 19, 2007, a buyer identified as "Waialua 86" which outbid several investment groups in January 2007, and Bank of Hawaii cancelled negotiations for the sale. According to the article, "Waialua 86" managers include Mainland investor David Chang, who heads CCL, Holdings (USA) Ltd. and that CCL is part of a family of companies that includes shipping interest in Hong Kong and a Southern California residential developer. For obvious reasons, it did not appear that "Waialua 86" was interested in keeping the lands in its present classification and for strictly agricultural uses. The community of Wahiawa was also concerned about the possibility of 5 acre parcels and "fake farms" and possible expansion and development of Poamoho Estate type subdivision as seen mid-way down Kaukonahua Road leading into Waialua.

"In early April as this bill was being considered, I was informed by the Bank of Hawaii aka Pacific Century Trust that an "unsolicited prospective purchaser" had entered into a purchase agreement, and that it could not provide any details, citing confidentiality provisions and practices. I understood and appreciated that, but was still deeply concerned since prior representations by the Bank of Hawaii gave me the impression that a (1) public bid price would be forth coming in March, (2) local realtor or broker would be retained to list the property, and (3) interested parties, including the State or a public-private partnership would be viewed as potential purchasers. This did not bode well for the community of Wahiawa and the North Shore.

"Interestingly, on Thursday, April 23, 2008, I attended a meeting with Senator Bunda to meet Dennis Blain, Owner/General Partner, Nokaioi Development, LLC, the prospective purchaser. In brief, the usual introductions were made, and we had a very cordial and open discussion. I was very frank with Dennis Blain and told him that the community of Wahiawa would oppose any development and petition for up-zoning to Urban Classification and that even five-acre farm lots or "fake farms" would face stiff opposition. Similar comments and insights into the pulse of the North Shore and Wahiawa community was voiced by Senator Bunda. I also told him that we were working with such people as the State Department of Agriculture, Trust for Public Lands, Hawaii Farm Bureau, U.S. Army, and the Office of Hawaiian Affairs. In all, it appeared that

Dennis Blain appreciated our frank discussion as he emphasized that he did not want to "waste time" on a project that would face steep opposition. After about one-half hour, we parted company, acknowledging our respective roles and interest and constituencies. Later, I would be surprised to learn that an email-letter to Senator Bunda and myself, and copied to Governor Lingle, dated April 28, 2008, purporting to summarize our meeting would find itself on Ian Lind's Blog. Dennis Blain's final paragraph is similarly strange as he states, "I am willing to accept a reduced price of \$68,000,000 or \$32,300 per acre. My company is willing to partner in the transaction giving the State a substantial profit and some key lands. This would allow the State of Hawaii [to] acquire the rights and lands surrounding Lake Wilson and the Lake Wilson Dam. Thank you again for your time and consideration. Please advise me, at your earliest convenience, on how you would like to proceed." I did not respond, believing that it best left to folks like Lea Hong and the Department of Agriculture or the Agribusiness Development Corporation.

"In the final days of Conference negotiations, I received great encouragement from Senator Jill Tokuda, Chair, Senate Agriculture and Hawaii Affairs Committee, who told me that House Bill 2293 would be the vehicle for the proposal and that our respective staffs would draft the proposed Conference Draft. I also greatly appreciated the assistance and support and involvement of Lea Hong, Trust for Public Lands, with the language. It should be known that had it not been for the insistence and zealous advocacy of Lea Hong, this bill might have never been passed. Indeed, let the record reflect that she is the "point" of the spear and has done much of the leg work in putting together the public-private partnership among both several agencies and governmental units that include, the U.S. Army, Col. Howard Killian; Office of Hawaiian Affairs, Johnathan Schuler; and State of Hawaii Department of Agriculture, Director Sandra Kunimoto.

"Similar to the approaches taken for the purchase of land in Pupukea-Pamaluu and Waimea Valley, I always envisioned working with the Trust for Public Land, the United States Army, the United States Navy, the Office of Hawaiian Affairs, the City and County of Honolulu, as well as our Congressional Delegation, to put forth a reasonable bid for the purchase of the Galbraith Estate. Just last year, the parties, led by Trust for Public Land, offered \$8 million for the property, including the most controversial parcel – the land under Lake Wilson and Wilson Dam – to the successors of the Galbraith Estate. While this bid demonstrated the commitment of all of these organizations, the bid was rejected.

"After numerous discussions with the parties, it was felt that the successor to the Galbraith Estate was actually very receptive to the approach taken by TPL and the other parties. The only thing that was missing was a demonstration of the State's commitment to this purchase. Mr. Speaker, we are now in a position to make that commitment.

"In closing, let me thank you Mr. Speaker for your support of myself and the community of Wahiawa, Whitmore Village, and the North Shore. This is hallmark legislation and should it be enacted into law, generations of families in and around Wahiawa and the North Shore of Oahu will reap the benefits of our bold actions this day. While I recognize that these are austere times, I also understand that we have before us a once in a lifetime opportunity to protect and preserve 2,100 acres of some of the best agricultural lands in the State, all situated in a large, contiguous parcel, perhaps at a fraction of what the lands might be worth.

"Rather than allowing the lands to be purchased by gentleman farmers, the public purpose is best served by retaining as much of this land as possible as open space for farming and growing of food for our table or fuel for our cars and lights. The cultural value and sacredness of this land at Kukaniloko can be attested to by the Office of Hawaiian Affairs and the Friends of Kukaniloko. Indeed, my dear friend Tom Lenchanko, may now have the ability to develop the site into a place of educating the future generations who will reside in

these fertile plains. Likewise, the potential of diversifying our recreational and tourist related attractions will be achieved by the preservation and maintenance of Lake Wilson and the public fishery that it is. Control of Lake Wilson and the Lake Wilson Dam will not only insure the continued retention and release of irrigation waters to our North Shore farmers, but enable them to pay lower water rates and lease rents, while we increase our self-sufficiency and enhance food security.

"This bill will provide the State with the statutory authority to enter into a public-private partnership to purchase the property, and with a little bit of luck, we can make this purchase of the lands owned by the Galbraith Estate a reality. Mr. Speaker, there is a time for all things under heaven and all the stars are in alignment. It is my sincere hope that we can make this a reality.

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

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

"Thank you Mr. Speaker. On the same measure, in strong support. As the other speaker just mentioned, we had to find a way of doing something because since I came in 2000, I've been pushing for us to acquire Lake Wilson. Lake Wilson right now is the feeder for the North Shore, even though it is R2 water, but it feeds the waterway to Kamehameha, and also the Dole Plantation. With that water it helps to irrigate our seed corn and also papaya.

"And finally we have this bill that we have in front of us that hopefully we can have this land in perpetuity in agriculture because we have a lot of things that are happening now in ag in our area, especially with the military coming on board more. And we are also working with the Trust for Public Land so that we can do more in saving this land and hopefully that dream that my colleague just mentioned, that is a partnership building the Wahiawa and Waialua community, because basically Waialua encompasses Wahiawa, but we are working together as one. Thank you."

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of the measure, which will preserve the Galbraith Trust lands and enable the purchase to occur in the future.

"As a resident of Mililani, I feel strongly that the Galbraith lands must remain open because they are the gateway to the North Shore and the magnificent vistas that are enjoyed daily by both locals and tourists alike.

"In addition, the near proximity of the Kukaniloko Birthstones State Monument makes this one of the most important cultural sites in our State.

"Buying the Galbraith lands will assure these prime agricultural lands will continue to be in food production at a time when sustainability is a major concern for our people.

"In addition, the open space will not curtail the Army's ability to train at Schofield. The economic benefit of the troop presence should not be underestimated in these times of declining revenues.

"The purchase of Galbraith is something that should be applauded statewide as it is for the future well-being of our people that this is happening today. I urge the Members' support."

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

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

"Thank you, Mr. Speaker. I'm in opposition to this measure. As I have repeated, I guess ad nauseam, I'm concerned about the liability of Lake Wilson and the dam there. Should that dam give out, the State would be liable for all the damages done downstream. I'm also kind of concerned about this amendment. It says that should this not arrive at an agreement to acquire the property within a certain time, that in a reasonable amount of time as determined by the Department of Land and Natural Resources, the Department of Land and Natural Resources shall exercise its power of eminent domain to acquire the property. For the purposes of this Act, condemnation of the property shall not be subject to legislative disapproval, provided that the cost of acquiring the lands described in this Act does not exceed the amount of funds appropriated or authorized by Section 10 and appropriated by the supplemental appropriation this year, which was \$13 million. We often talk about not binding a future Legislature, but this does exactly that.

"The \$13 million is being appropriated this year, and there is no agreement on a sales price at this point in time. The Agribusiness Development Corporation (ADC) did not feel that they were the right party to negotiate, but they are in here. It's like we are passing a bill where nothing's happening. We are appropriating money. We're not sure whether it's enough or we haven't had an appraisal, there are people on this Floor that weren't in agreement with the bill in Kahuku because it didn't have enough detail and they didn't like the \$250,000 in there. Here we have a bill that has a lot of things up in the air and we've appropriated \$13 million, which we could have found a lot of other uses for. So those are my strong reservations. Thank you."

Representative M. Oshiro rose to respond, stating:

"Mr. Speaker, just a short rebuttal. First of all, the reason why the Agribusiness Development Corporation, which is embedded in the Department of Agriculture, is noted as the lead Department is pursuant to an understanding with Director Kunimoto, in consultation with Lea Hong from the Trust for Public Land. I should also mention that Lea Hong, Trust for Public Land, is probably the key to this entire endeavor. She will be working with other private parties such as Colonel Killian at Schofield Barracks to look at some similarity. She's also working with the Office of Hawaiian Affairs, who have also pledged their commitment to this endeavor. I just want to clarify that there are interested parties to move this together. Thank you."

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

"Mr. Speaker, a brief potential conflict disclosure. My wife is Vice Chair of Bank of Hawaii, and the bank is the trustee for the Galbraith Trust. Also a number of my partners are beneficiaries of Galbraith," and the Chair ruled "no conflict."

Representative Meyer rose, stating:

"I'm sorry Mr. Speaker, I think I misspoke, I am voting no on this, in my remarks I said I have reservations."

The motion was put to vote by the Chair and carried, and H.B. No. 2293, HD 1, SD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 46 ayes to 2 noes, with Representatives Finnegan and Meyer voting no, and with Representatives Bertram, Nakasone and Sonson being excused.

H.B. No. 2872, SD 2, CD 2:

Representative Caldwell moved that H.B. No. 2872, SD 2, CD 2, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I'd like to disclose a potential conflict. The company that I am a Vice President of, we have a cabin up at Koke'e," and the Chair ruled "no conflict."

Representative Sagum continued in support of the measure, stating:

"Thank you Mr. Speaker, I stand in support of this bill. This bill establishes a one-time process for the leasing of public lands for recreation, residences, and use in State parks or State forest reserve areas within a county with a population of less than 100,000. This bill also creates a Koke'e State Park Advisory Council.

"In the past, the Department of Land and Natural Resources granted recreation resident use leases on public lands in State parks and forest reserves for terms not exceeding 20 years. During the lease period the permittees and lessees made major improvements to their lots. For many of them, the leases have recently expired and they now have month-to-month revocable permits. If they are not issued new leases, the improvements that they've made and paid for over the years will revert to the State. There are legal issues relating to that point.

"The bill is intended to provide a limited, and let me emphasize, limited opportunity for such permittees or lessees to renew their leases while protecting the State's interests. The bill gives the lessees and permittees a one time only opportunity to directly negotiate the renewal of those leases. It is emphasized that the lease rents must be based on market rates for land and buildings. So this will be a significant improvement to the State, as a revenue generation in Koke'e. If the permittees, lessees, and Board of Land and Natural Resources cannot agree to these terms, then the Board is required to put the lease up for auction.

"The bill also creates a Koke'e State Park Advisory Council comprised of community members that are appointed by the Governor, House Speaker, and Senate President, and includes 4 ex-officio non-voting members. The council is to be responsible for reviewing and assisting in the updating and revising of the Koke'e State Park Master Plan, advising and assisting in the management of the Koke'e recreational cabin leases, enhancing community education and cultural awareness of Koke'e State Park, participating in the protection and preservation of the natural and cultural resources of the park, and advising and assisting in the overall implementation of the Master Plan. The Council will bring a community perspective to the property use and maximum association of the Koke'e State Park.

"In closing I would like to reiterate my support for both parts of HB 2872, SD 2, CD 2. I'd like to thank the House for their support and especially my colleagues from Kauai, Representative Morita and Representative Tokioka. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 2872, SD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

S.B. No. 2198, SD 2, HD 2, CD 2:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2198, SD 2, HD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND CONSERVATION," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

S.B. No. 2499, HD 1, CD 2:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2499, HD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO TARO," passed Final Reading by a vote of 48 ayes and, with Representatives Bertram, Nakasone and Sonson being excused.

S.B. No. 6, HD 2, CD 2:

Representative Caldwell moved that S.B. No. 6, HD 2, CD 2, pass Final Reading, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. In opposition of Senate Bill No. 6. Although I support preservation of *opihī*, I would prefer that DLNR work on administrative rules to regulate this practice. The reason for that is you cannot treat each community the same. For my district, we have many practices, not only by native Hawaiians, but also by non-native Hawaiians, and although the Constitution supports and protects our rights, there are non-native Hawaiians who also follow our protocols and practices for subsistence and cultural reasons.

"I also have to believe that in working closely with the communities in their *moku* and their *ahupuaa*, they are able to come together and work on a management plan in how to preserve this resource. This measure before us does not address that. It provides a blanket law which could damage and hurt some of what our community practices. But more importantly, I have to believe that this will affect our families in ways where a practice or a resource that is utilized not only for nourishment, but for cultural reasons, will change the way that community views and how they operate. So I ask my colleagues to please vote in opposition to this bill."

Representative Finnegan rose in opposition to the measure and asked that the remarks of Representative Carroll be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

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

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

"Yes, Mr. Speaker, in reviewing the bill, I'm opposed to this measure. I don't want to pay any disrespect to Chairman Ito and his Vice Chairman, and I'm sure the ambiguities here are through no fault of the House, and it must be the other Chamber. For that reason, Mr. Speaker, I'd like to move to recommit this measure to Conference Committee."

At this time, Representative Souki moved that S.B. No. 6, HD 2, CD 2, be recommitted to the Committee on Conference, seconded by Representative Carroll.

At 2:55 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:29 o'clock p.m.

At this time, the Chair announced that S.B. No. 6, HD 2, CD 2, would be moved to the End of Calendar.

S.B. No. 2262, SD 1, HD 2, CD 2:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, S.B. No. 2262, SD 1, HD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

At 3:31 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2293, HD 1, SD 2, CD 2
 H.B. No. 2872, SD 2, CD 2
 S.B. No. 2198, SD 2, HD 2, CD 2
 S.B. No. 2499, HD 1, CD 2
 S.B. No. 2262, SD 1, HD 2, CD 2

FINAL READING

The following bills were taken from the Clerk's desk and the following action taken:

Representative Caldwell then moved to agree to the amendments proposed by the Senate to the following House bills, seconded by Representative B. Oshiro and carried. (Representatives Bertram, Nakasone and Sonson were excused.)

H.B. No. 1755, H.D. 1, S.D. 1
 H.B. No. 2387, H.D. 1, S.D. 2
 H.B. No. 2605, H.D. 2, S.D. 1
 H.B. No. 2710, H.D. 2, S.D. 2
 H.B. No. 3150, H.D. 2, S.D. 1

The Chair addressed the Clerk who announced that the record of vote forms for the aforementioned bills had been received, and a quorum was present at the respective decision making sessions with a majority of the managers present voting in the affirmative.

H.B. No. 1755, H.D. 1, S.D. 1:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1755, H.D. 1 and H.B. No. 1755, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

H.B. No. 2387, H.D. 1, S.D. 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2387, H.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Sonson, M. Oshiro and McKelvey). Noes, none. Excused, 1 (Pine).

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2387, H.D. 1 and H.B. No. 2387, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

H.B. No. 2605, H.D. 2, S.D. 1:

Representative Caldwell moved that H.B. No. 2605, HD 2, SD 1, pass Final Reading, seconded by Representative B. Oshiro.

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

"Mr. Speaker, I rise in support of this measure. Sometimes things that are symbolic are more important than the actual. This is a great gesture to our armed forces, those who are serving in our military who can have a small exemption, \$1,500, for their vehicle taxes. I think this is an important bill, it's a gesture, but it's a 'thank you' particularly at this time when we are at war in various parts of the world. Thank you, Mr. Speaker."

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

"Mr. Speaker, I'm rising to ask for a ruling of potential conflict. I'm a member of the Army Reserve," and the Chair ruled "no conflict."

Representative Cabanilla continued in support of the measure, stating:

"Having said that, Mr. Speaker, I would like to speak in support of the measure. This bill is, in my opinion, a housekeeping measure, because the active duty components now currently have this exemption for vehicle tax, and because we are now on the fourth year or fifth year of the War on Terror and we have been sending our young men and women to war and they had been a major support of the active duty, I think that it's just proper that we give them the same exemption to give them parity. Thank you."

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

"Thank you Mr. Speaker, ruling on a potential conflict. I'm a member of the Hawaii Army National Guard," the Chair ruled, "no conflict."

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This measure provides equity for National Guard members who reside in Hawai'i. Other states have recognized the commitment of these servicemen to the state and the country. Given our isolation from the continental United States, in the event of a major disaster or emergency the Guardsmen deployed here are the primary support to first responders. This measure would not only provide the recognition that National Guard members receive from other states; it would also come at a very minimal cost. Therefore, I ask my colleagues to support this measure. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, I rise in support, but with reservations on this measure.

"This measure will allow a Hawaii resident who is a member of the Hawaii National Guard or Military Reserve an exemption on one of that member's non-commercial vehicles from the weight tax. This measure may cause a revenue loss of approximately \$245,000 a year to the State Highway Fund. However, Mr. Speaker this is not the reason for my reservations.

"Mr. Speaker, it is my understanding that this measure was introduced as a show of support for the men and women who serve our country. It was estimated that the average vehicle weight tax for a vehicle in Honolulu is \$35; on the Neighbor Islands the average is about \$34. When you consider the sacrifice and endangerment these brave men and women endure for our freedoms and way of life, it is a paltry sum. Mr. Speaker is this how we want to show our support and gratitude to the men and women who put their lives on the line for this State and our country? By giving them a \$35 exemption on only one of their vehicles? I would have to say, no.

"To the contrary, these men and women deserve more from us and this State. Let me explain.

"Section 59, Act 213, 2007 Regular Session, last year's budget bill, directed the Office of Veterans' Services to conduct a comprehensive assessment of the adequacy of mental health services, medical and rehabilitative services, and job training and employment services for veterans of the conflicts in Iraq and Afghanistan who reside in Hawaii; and prepare a report on its findings. The proviso read in pertinent part,

"Provided that for services to veterans (DEF 112) the department of defense shall conduct a comprehensive assessment of the adequacy of mental health services, medical and rehabilitative services, and job training and employment services for veterans of the conflicts in Iraq and Afghanistan who reside in Hawaii, and prepare a report on its findings; provided further that the report shall include statistics for the current and projected population of these veterans in Hawaii, identification of gaps in services, and recommendations on how to fill the gaps in service; provided further that the report shall include:

- (1) Projections for average costs per veteran served for each type of service;
- (2) Projections on the number of veterans that will require each type of service;
- (3) Total cost projections for each type of service;
- (4) Projected costs of failing to expand each type of service beyond existing levels due to lost productivity; and
- (5) A discussion on the level of federal funds available for each type of service and in aggregate, and the adequacy of federal funding dedicated to meet the needs of these veterans for services;

and provided further that the department shall submit a draft report to the legislature no later than twenty days prior to the convening of the 2008 regular session and a final report no later than February 1, 2008."

\$200,000 was provided to cover any costs associated with this study and report.

"During the Departmental Budget Briefing period on January 11, 2008, Director Mark Moses submitted his budget request and noted in the written submission the following explanation for not complying with the Legislature's request pursuant to Section 59, Act 213, SLH, 2007:

"During our preliminary discussions with several researchers concerning this report, they were concerned about the timeframe to collect and process data to prepare the report. Several mentioned that it would require a team of researchers to accomplish the task. Given this feedback the OVS decided to enter discussion with the VA in early December 2007 and solicited their support in providing data to complete the report. After talking with the VA statistician, we were informed on December 27, 2007, that VA was receptive to this idea and will be supplying data, research collaboration and assistance with interpreting the data so we may provide a final report. The purpose of this draft is to present the framework of the final report that will include a detailed presentation of the issues."

"As of this day, May 1, 2008, the Office of Veteran Services never conducted the assessment. No reports have been filed with this Legislature.

"If we are serious about honoring and supporting our men and women in the National Guard and Reserves, we should be determining whether critical support systems are available for them. If we are serious we should insist that the comprehensive critique and report be presented post haste. Not merely assuaging our collective conscience with symbolic gestures.

"The whole goal of the assessment was to ascertain and quantify and qualify what we are NOT doing to properly support these brave men and women when they return home. It turns out that your State House of Representatives were ahead of the curve on this issue, as our Congressional delegation, led by Senator Daniel K. Akaka, over the summer of 2007, conducted and analyzed the same issues and concerns at the federal level. If not for the tardiness and foot-dragging of our State Office of Veteran Services, we could have continued to be ahead of the curve and, perhaps, set a standard for other states to follow.

"Instead, we get excuses from our Office of Veteran Services as to why they haven't submitted a report required by the Legislature. It's been clear from several headlines over the past few months that the federal Office of Veteran Services has been failing to provide adequate services. One has to wonder if there's another reason why our State Office of Veteran Services has been stalling and reluctant to produce any assessment.

"We are at the end of the 2008 Session, and the Office of Veteran Services has yet to submit the report that was required in December 2007. That is nearly 6 months ago, about one-half year, and no assessment, no analysis, and no report. The Director of the Office of Veteran Services and the Lingle-Aiona Administration needs to be held accountable for such failures.

"Mr. Speaker, I take note that it has been 5 years to this day, May 1, 2003, when the President of the United States, George W. Bush, stood in front of a giant "Mission Accomplished" banner aboard the USS Abraham Lincoln and declared "one victory" in the war on terrorism and an end to major combat operations in Iraq. We should know if we are providing adequate mental health and rehabilitative services to attempt to make our military veterans who have been physically and/or mentally affected by the overseas conflicts whole again. We should know if we are providing job training and employment services so that they can transition back into civilian life. There simply is no excuse for not knowing the answers to these questions.

"Mr. Speaker, it is more important to know what services we are NOT providing and then focus our collective energies and resources toward addressing those specific short comings. That's the key to truly showing our troops that we appreciate all that they have done and will continue to do for the state and country. Indeed, I hope none of us feel comfortable to sit on our laurels and congratulate ourselves while our brave warriors and citizen soldiers continue to go without adequate health care, housing, and employment opportunities. This measure is a sincere and kind gesture, but our veterans deserve far more than thirty or forty bucks a year.

"It is for the aforementioned reasons that I express my reservations on an otherwise meritorious measure."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2605, H.D. 2 and H.B. No. 2605, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ARMED SERVICES," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

H.B. No. 2710, H.D. 2, S.D. 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2710, H.D. 2, on the following showing of Ayes and Noes:

Ayes, 4 (Sonson, Tokioka, Takamine and Pine). Noes, none. Excused, none.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2710, H.D. 2 and H.B. No. 2710, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RE-EMPLOYMENT OF RETIREES," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

H.B. No. 3150, H.D. 2, S.D. 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 3150, H.D. 2, on the following showing of Ayes and Noes:

Ayes, 3 (Green, Morita and Mizuno). Noes, none. Excused, 1 (Ward).

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 3150, H.D. 2 and H.B. No. 3150, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT," passed Final Reading by a vote of 48 ayes, with Representatives Bertram, Nakasone and Sonson being excused.

At 3:36 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 1755, H.D. 1, S.D. 1
H.B. No. 2387, H.D. 1, S.D. 2
H.B. No. 2605, H.D. 2, S.D. 1
H.B. No. 2710, H.D. 2, S.D. 2
H.B. No. 3150, H.D. 2, S.D. 1

**DISPOSITION OF MATTERS
PLACED ON THE CLERK'S DESK**

Representative Caldwell moved to agree to the amendments made by the Senate to the following House Concurrent Resolutions, seconded by Representative B. Oshiro and carried. (Representatives Bertram, Nakasone and Sonson were excused.)

H.C.R. No. 21, HD 1, (SD 1)
H.C.R. No. 62, HD 1, (SD 1)

FINAL ADOPTION

The following House Concurrent Resolutions were taken from the Clerk's desk and the following action taken:

H.C.R. No. 21, HD 1, SD 1

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 21, HD 1, and H.C.R. No. 21, HD 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO WORK TOGETHER TO DEVELOP A STANDARDIZED, WORKABLE POLICY TO

PROTECT THE ELDERLY WITHOUT COMPROMISING RESIDENT CARE, AND THAT ENCOURAGES MORE PEOPLE TO BECOME ADULT RESIDENTIAL CARE HOME OR COMMUNITY CARE FOSTER FAMILY HOME OPERATORS," was Adopted, with Representatives Bertram, Nakasone and Sonson being excused.

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

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 62, HD 1, and H.C.R. No. 62, HD 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO STUDY THE SOCIAL AND FINANCIAL IMPACT OF MANDATORY HEALTH INSURANCE COVERAGE FOR USE OF MEDICAL SURVEILLANCE SYSTEMS," was Adopted, with Representatives Bertram, Nakasone and Sonson being excused.

At 3:38 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:37 o'clock p.m.

END OF CALENDAR

S.B. No. 6, HD 2, CD 2:

The motion was put to vote by the Chair and carried, and S.B. No. 6, HD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," was recommitted to the Committee on Conference with Representatives Berg, Bertram, Cabanilla, Ito, Karamatsu, Nakasone, Sagum and Waters being excused.

SUPPLEMENTAL CALENDAR #1

GOVERNOR'S MESSAGES

The following messages from the Governor, (Gov. Msg. Nos. 358 and 360) were received and announced by the Clerk, and Gov. Msg. Nos. 322 and 323 previously received, were taken from the Clerk's desk and the following action taken:

Gov. Msg. No. 358, informing the House that on May 1, 2008, H.B. No. 7, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE I-SAVERX PRESCRIPTION DRUG PROGRAM," was vetoed with her statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
May 1, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 7

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 7 entitled "A Bill for an Act Relating to the I-SaveRx Prescription Drug Program."

This bill requires the Governor to enter into a written agreement with the state of Illinois or another state to participate in the I-SaveRx prescription drug program. That program would allow the reimportation of drugs from Europe and Canada by allowing individuals to fill prescriptions from pharmacies in these foreign countries.

This bill is objectionable because it violates the Federal Food, Drug, and Cosmetic Act (21 USC (a), (c), and (d)). This federal act is specifically designed to protect the American public from receiving unsafe, ineffective, and poor quality medications, by prohibiting the importation of prescription drugs from other countries. Enactment of this bill would place Hawaii residents in violation of federal law.

For the foregoing reason, I am returning House Bill No. 7 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

Representative Caldwell moved to override the veto of H.B. No. 7, HD 1, SD 1, as contained in Gov. Msg. No. 358, seconded by Representative B. Oshiro.

Representative Thielen rose to speak in opposition to the override, stating:

"Mr. Speaker, I'm rising on several reasons. The first of which is to oppose overriding the Governor's veto. The other is to send a message loud and clear to my colleagues. This has been a Session the most filled with petty partisanship that I have ever seen, Mr. Speaker. The motion that we have before us is simply another example of that, and then you go down the list of the other ..."

Representative Caldwell rose to a point of order, stating:

"Mr. Speaker, point of order. She's not debating the merits of the motion to override the veto on this particular matter."

Representative Thielen continued, stating:

"Mr. Speaker, I just said the motion before us in my comments. So I believe that the Majority Leader is just trying to interrupt my debate on the motion."

The Chair then stated:

"Representative Thielen. Representative Thielen, at this point I have not recognized you, so you are out of order. The Chair at this time would respond to the Majority Leader that if your statements are in concert with the motion to override the veto the Chair will allow you, so please proceed and you've got 3 minutes to go."

Representative Thielen: "Thank you Mr. Speaker, I am speaking against overriding the Governor's veto and overriding the Governor's veto on the other measures before us on this agenda. Mr. Speaker this is petty partisan politics at its worst. We've seen that in the bill to handcuff the Governor's emergency powers, we now see the Majority coming with this motion ..."

Speaker Say: "Representative Thielen you are out of order with that point on that particular statement on the Governor's powers. There is nothing before this body in regards to this particular measure dealing with Governor's powers. It is dealing with the Hawaii I-SaveRx legislation, so Representative Thielen, please confine your remarks."

Representative Finnegan: "Mr. Speaker, I believe that you allowed people some flexibility in cases like these before, and she is speaking on the motion and explaining her motion, and the reason for her opposition to the motion."

Speaker Say: "Well she should not make any reference to any bills tied to the Governor's emergency powers at this point because it is dealing with the prescription drug program."

Representative Finnegan: "I understand, Mr. Speaker. It's also just been exercised to some flexibility in regards to other issues having to do with the motion in past, in today."

Speaker Say: "In today, well at that point when this other measure comes up in regards to emergency powers which I really don't see any ..."

Representative Finnegan: "Mr. Speaker, I'm talking about debate on the motion."

Representative B. Oshiro: "Point of order, Mr. Speaker. The Minority Leader hasn't raised a point of order and you've already made a ruling, so at this point they either need to challenge the ruling or we need to move on."

Speaker Say: "Let's move on."

Representative Thielen: "Mr. Speaker, I will go ahead on debating on the motion before us, but I would also ask the Members to take a look at the third item on this, the message from the Governor that is going to be subject of an override, and it does relate to the ability of the Governor to act in an emergency as well, and that's Senate Bill ..."

Speaker Say: "Representative Thielen. Representative Thielen, the Chair will allow you to speak when that particular measure comes up. It is not before us."

Representative Thielen: "Mr. Speaker, I understand that ..."

Speaker Say: "Confine your remarks."

Representative Caldwell: "Point of order, you've made your ruling, a number of times."

Speaker Say: "I agree, thank you."

Representative Thielen: "I understand what you're saying Mr. Speaker. I don't want to participate in this petty partisanship of overriding vetoes of Governor Linda Lingle, the most popularly elected Governor in our State's history. And our Minority Caucus agrees with me on this."

Representative Caldwell: "Mr. Speaker, point of order."

Speaker Say: "Representative Caldwell, for what purpose do you rise? I'm allowing the speaker to speak ..."

Representative Thielen: "We are leaving, Mr. Speaker."

Speaker Say: "Okay, you are leaving. Fine. Members, is there any further discussion?"

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 7, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE I-SAVERX PRESCRIPTION DRUG PROGRAM" as contained in Gov. Msg. 358, was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes:

Ayes: 39: Awana, Belatti, Brower, Caldwell, Carroll, Chang, Chong, Evans, Green, Hanohano, Har, Herkes, Ito, Karamatsu, Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tokioka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Excused: 12: Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen and Ward.

At 5:46 o'clock p.m., the Chair noted that the motion to override the veto of H.B. No. 7, HD 1, SD 1, as contained in Gov. Msg. No. 358, had carried.

Gov. Msg. No. 322, informing the House that on April 22, 2008, S.B. No. 868, SD 2, entitled: "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS," was vetoed.

Representative Caldwell moved to override the veto of S.B. No. 868, SD 2, as contained in Gov. Msg. No. 322, seconded by Representative B. Oshiro.

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 868, SD 2, entitled: "A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS," as contained in Gov. Msg. 322, was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes:

Ayes: 39: Awana, Belatti, Brower, Caldwell, Carroll, Chang, Chong, Evans, Green, Hanohano, Har, Herkes, Ito, Karamatsu, Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tokioka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Excused: 12: Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen and Ward.

At 5:48 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 868, SD 2, as contained in Gov. Msg. No. 322, had carried.

Gov. Msg. No. 360, informing the House that on May 1, 2008, S.B. No. 2779, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," was vetoed with her statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2779

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2779, entitled "A Bill for an Act Relating to Labor."

The stated purpose of this bill is to clarify the types of circumstance under which the Governor, by executive order, may suspend the statutes relating to prevailing wages and hours for public works projects.

Current law provides that during a national emergency declared by the President or the Congress of the United States, or a state of emergency declared by the Governor, the Governor by executive order may suspend the provisions of chapter 104, titled, "Wages and Hours of Employees on Public Works," of the Hawaii Revised Statutes. Under this bill, the circumstances under which a state of emergency may be declared by the Governor appear to be limited to circumstances designated in section 127-10 or 128-7, Hawaii Revised Statutes.

This bill is objectionable because if this bill is intended as a mere clarification of the existing powers of the governor, it is unnecessary. The current law already provides the necessary provisions that enable the Governor to act quickly in addressing the needs of our people during times of emergency.

This bill is also objectionable because it adds unnecessary and confusing wording that may restrict a Governor's ability to suspend rules that protect the health and safety of Hawaii residents. I cannot allow our residents to be jeopardized if delays are encountered in emergency repairs and construction. Finally, this bill is redundant in the manner in which it is worded and obfuscates a section of the statutes where there should be unquestioned clarity--the powers of a Governor during times of emergency.

For the foregoing reasons, I am returning Senate Bill No. 2779 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

Representative Caldwell moved to override the veto of S.B. No. 2779, HD 2, as contained in Gov. Msg. No. 360, seconded by Representative B. Oshiro.

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2779, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," as contained in Gov. Msg. 360, was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes:

Ayes: 39: Awana, Belatti, Brower, Caldwell, Carroll, Chang, Chong, Evans, Green, Hanohano, Har, Herkes, Ito, Karamatsu, Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tokioka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Excused: 12: Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen and Ward.

At 5:50 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 2779, HD 2, as contained in Gov. Msg. No. 360, had carried.

Gov. Msg. No. 323, informing the House that on April 22, 2008, S.B. No. 2898, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE," was vetoed.

Representative Caldwell moved to override the veto of S.B. No. 2898, SD 1, as contained in Gov. Msg. No. 323, seconded by Representative B. Oshiro.

Representative Belatti rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'm quite disappointed that we have some Members on the opposite side of the aisle not present, because I hate to be the only no vote on this veto override, but I am speaking in opposition. You know we've gone through this, the Electoral College benefits small states, and we are a small state. This is essentially a work around the US Constitution. I know that the votes are not here to support my position, but I do hope that we in fact see the benefits of this measure and that we don't see the advocates go on to the next state and say 'Look at Hawaii. Look at this small state that was willing to give up their benefits under the Electoral College system. You can do it too.' I hope we're not part of that kind of marketing plan, and with that said, thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, in opposition. May I have the words of the previous speaker adopted as if they were my own? And real briefly members, I know I'm kind of beating a dead horse here, but again, our vote will be subsumed by that of the bigger states in the compact. California will still be king. I think it's kind of disempowering people when they vote for a candidate, and all of a sudden, because the other states in the compact, be it Pennsylvania, Ohio, Florida or California, their vote will trump our vote. It will be subsumed. Our voice will be lost. Maybe it doesn't matter, but it sends a message. Talk to former President Bill Clinton about that. Thank you, very much."

Representative B. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support. Just very briefly, I actually would be proud if it went around and were said that Hawaii wanted to be part of this compact, because for me, what this comes down to is the fundamental right to vote; whether one man's vote or one woman's vote is equal, and that is the primary purpose that we are sustaining here today. I remember when I read George Orwell's *Animal Farm* there was a saying that, 'All animals are created equal' but after awhile they said, 'Well, some are more equal than others,' and that's what we have because today our Electoral College weighs some votes more heavily than others, and that's unfortunate."

"So when you talk about disenfranchisement, when you talk about people asking, 'Why should I vote? My vote doesn't count.' That's what it all comes down to. Because for some people, their vote really doesn't count. Because what matters is about the Electoral College, what matters is if you are in a swing state, what matters is if you are in Florida, or if you're in Ohio, or if you're in those states that will determine who the president is. Hawaii, California, New York are foregone conclusions. That is not democracy. Thank you, very much."

Representative Caldwell rose to speak in support of the override, stating:

"Mr. Speaker, also brief comments in support. Comments were made that somehow we're trying to get around the Constitution of our country. If you read Article II, the Executive Branch, Section 1, The President, it says, 'The executive power shall be vested in a President of the United States of America. He shall hold his office to a term of four years, and, together with the Vice-President chosen for the same term, be elected, as follows.' And the operative language is 'Each state shall appoint, in such manner as the Legislature thereof may direct,' which is exactly what we are doing here today. Thank you, Mr. Speaker."

Representative Rhoads rose to speak in support of the override, stating:

"In support. I think there's a very strong argument to say that if this compact had been in place in the year 2000, Al Gore would be President today, and the country and Hawaii would be much, much better off. So I'm not sure that we're giving up anything. Thank you."

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

"Mr. Speaker in support. I'm obviously supporting this measure, not for partisan reasons, but for the simple fact that too many states are irrelevant, and it doesn't go against the Founding Fathers wishes or the US Constitution, because the Founding Fathers never wanted to tell each state how to award their Electoral College votes. States can decide however they want to. Some people say that we shouldn't go against tradition, but tradition originally was that only white male land owners voted, and women didn't. So at certain times we come to conclusions where adjustments need to be made."

"I favor a Presidential race similar to the Democratic Presidential Caucuses where, because everything is by a percentage of a vote and

its not winner take all, all states are important, and you see that this race is going to go all the way to the end. Whereas in the Republican caucuses, after the first 5 states made their choices, it was a foregone conclusion."

"As far as Hawaii being irrelevant, I'll give you an example of what would likely happen. You have a state like California, which will have a vote for President, and perhaps 60% of those in California will favor a democratic candidate, and 40% will favor a republican candidate. Well, under this measure if that were to happen, then a percentage of the Hawaii votes will join those in California, and the Hawaii Republicans who were marginalized with their votes for a Presidential choice previously, would join those in California and be more relevant. It's too bad that the Minority Caucus isn't here to hear this because I think that's one side of this issue that they never talked about. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support. I believe it's the first time in all my years in the House, it's pretty liberating to be able to say anything about the Bush Administration and not worry about a rebuttal. That said, the reason why I'm in favor of this bill is that I believe whoever gets the most votes in an election should win. It's pretty simple. If you were to ask any person in the street, 'Do you believe whichever candidate gets the most votes should win?' I dare say, not everyone would say, yes."

"On the other hand, if you ask people on the street, 'Do you know how the Electoral College works?' I would think most people would have no idea, they probably think you have to take the SAT to enter the Electoral College. But look, we don't do this for any of the thousands and thousands of other political races we have in this country, otherwise why wouldn't we do it for the Governor's race?"

"For example, we have 51 House Districts, they all don't have an even number of actual voters, but more importantly, they don't have an exact even number of potential voters, because as we all know with the Reapportionment Commission, they are physically, mathematically not able to have every House District have the exact number. So why don't we have an Electoral College for Governors and just weight slightly districts that have a few more votes, and weight less those who don't have many votes, and add it all up and then have an electoral system. We don't do that because I think we are realizing intuitively and instinctively that would be a big mess, and again, those who get the most votes should win. Thank you very much."

Representative McKelvey rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal. I'd like to rebut some of the comments from the good speaker from Waikiki. You know, the fact of the matter is, small states, Hawaii, won't become more relevant. In the compact, the big guys are going to be the ones. It's a matter of logistics and money. You're obviously going to spend all your time in California and Texas and the big states where you have the bulk of the votes. You're not going to come to Hawaii. So from my position I just don't see that as being true. We're still going to be at the tail end of the dog. So you know, we're not going to become a big player, the Presidential candidates aren't going to come flying in here with all their jets and their entourages, and the press won't show up. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this measure. First I'd like to ask that the words of the speakers in support of this measure be included into the Journal as if they were my own. Thank you, and I'd like to just add a couple things."

"First, the United States is an experiment, and I think it's worked out pretty well. But what's ironic about our experiment here in this nation is that out of all the races in the entire nation, I think the good Representative from Pearl City brought this up, but I think it's important to stress this. Out of all of the races in the entire nation, or for that matter in the entire state, the one that I think is the most important for this nation is done through the Electoral College, and is not done by 'one person, one vote.'

"What is highly ironic about this is that if you take a look at the last, at least the last decade of voting, the last two Presidential races, what's interesting to note is that during Presidential races in all of our House districts we see a bump up of about 1,000 voters, and in some cases more than 2,000 voters. What's highly ironic about that is that many of the voters, as a few people already mentioned, many of the voters during a Presidential race don't even have a clue that they're in fact not voting for the President, but they're voting for an electoral vote. And I think if we were going to make this experiment work forever, that 'one person, one vote' rule needs to also include our President of the United States. Thank you, Mr. Speaker."

Representative Belatti rose to respond, stating:

"Mr. Speaker just one brief comment, an observation. I hope that this fervor for one man one vote, one woman one vote will be transcended and translated into our own discussion about our super delegate process. Thank you, Mr. Speaker."

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

"Yes Mr. Speaker, I speak in favor of course. We really have a short memory, some of us anyway, I will not mention any names. But go back a few years when our democratic candidate lost, Gore, and what has happened since then. The world is in turmoil. Our nation is in turmoil. What would have happened if we had one man one vote? Would the world be better? Possibly. I don't think we want to repeat this again. So let's vote for this amendment. Thank you."

Representative Brower rose to respond, stating:

"Thank you, Mr. Speaker. Just as a reminder, some people may think that only big states will count, but what will happen, though it's not that big states will count more than small states, what will happen is the smaller states will be able to get together and override or join what the big states do because it's on a percentage basis. So any large results in California may be offset by results in Hawaii because the votes of both those states for each candidate will count up until the grand total. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2898, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE," as contained in Gov. Msg. 323, was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes: 36: Awana, Brower, Caldwell, Carroll, Chang, Chong, Evans, Green, Hanohano, Har, Herkes, Ito, Karamatsu, Lee, Luke, Magaoay, Mizuno, Morita, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tokioka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes: 3: Belatti, Manahan and McKelvey.

Excused: 12: Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen and Ward.

At 6:05 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 2898, SD 1, as contained in Gov. Msg. No. 323, had carried.

The Chair then stated:

"At this time, can we have the Sergeant-at-Arms make the Minority aware that we will be adopting our closing Resolutions."

At 6:05 o'clock p.m., Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:06 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 333 and 334) were announced by the Clerk and the following action taken:

H.R. No. 333, entitled: "HOUSE RESOLUTION AUTHORIZING AND EMPOWERING THE SPEAKER TO PERFORM AND CARRY OUT ANY OFFICIAL LEGISLATIVE BUSINESS DURING THE INTERIM BETWEEN THE 2008 AND 2009 REGULAR SESSIONS," was jointly offered by Representatives Caldwell and Finnegan.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, H.R. No. 333 was adopted, with Representatives Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen, Ward being excused.

H.R. No. 334, entitled: "HOUSE RESOLUTION INFORMING THE SENATE AND THE GOVERNOR THAT THE HOUSE OF REPRESENTATIVES IS READY TO ADJOURN SINE DIE," was jointly offered by Representatives Say and Chong.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, H.R. No. 334 was adopted, with Representatives Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Pine, Sagum, Thielen, Ward being excused.

ANNOUNCEMENTS

Representative Evans: "Mr. Speaker, I just want to say farewell to a few of our colleagues that I think are going to try to go over to the Senate and so they will not be coming back to the House. We know that, so I want to wish them well and acknowledge them and send them off with a good farewell.

"Also I want to thank all the Chairs and the Leadership for all the bills that we accomplished. I also want to thank the Sergeant-at-Arms, the Chief Clerk, and the Legislative Reference Bureau. Even though it was the second year in a biennium, it was amazing how hard everybody had to work this year and I really appreciate it. Thank you."

Speaker Say: "To all of the Members, it's been a pleasure serving you these past two Sessions. We've accomplished much and done so within the fiscal constraints of the slowing economy. The needs of our people were greater than available resources, and although we wanted much for our constituents, as well as for deserving programs and projects, we have come to understand and accept that the budget could not accommodate the communities' wish lists. Together we have had to make some very difficult decisions, and in total however they were good and excellent, responsible and balanced decisions.

"I extend my heartfelt gratitude to all of you who are part of the decision making process. Of equal importance is the direction of the House Leadership style of conducting business. The House Leadership has empowered many of you, many of you including some of our younger members by making you Committee Chairs and Vice Chairs. Seven of the House Committees are headed by first time chairs. And this reflects the confidence that the House Leadership has in its Majority Members, both Chairs and Vice Chairs. And it reflects the present House Leadership's desire to prepare the next generation of leaders within this Chamber.

"The House Leadership has also delegated much power to Committee Chairs and Vice Chairs, like I stated earlier, and have supported your decisions. The House Leadership has provided guidance and assistance only when requested. Neither the House Leadership nor I have coerced anyone into taking any action they opposed. Our leadership style has been to ask, and not to demand. My confidence in you has paid off by the accomplishments of this House, which the Majority Leader would like to summarize later.

"To the Minority, I wish they were here, which I do have the highest regards for. I personally hope the House Leadership has treated you fairly and with respect. In fact, the House Leadership has been criticized for giving you too much in proportion to your numbers. It may be a small thing, but I must let the Minority Caucus know that I noticed and appreciated its participation in Conference Committee wrap-ups in Room 309 last week Friday night. Your participation, and I wish the seven members were here, showed a solid House presence when compared to our counterparts, which to my knowledge had no Minority members present that night.

"Of course, not everything has been smooth, recent events have further opened my eyes. The House Leadership and I understand that we need to listen more to you, consult more with you, and justify more fully our actions to you. In closing, we all think we have worked well together. Although we have disagreed on certain issues, we have generally treated each other courteously and with respect. And for all of us who are here this evening, we've accomplished much for the public good as a legislative body. And that should be the main reason for our public service here. To all of you, *aloha* and *mahalo*.

"Finally there's another report that I would like to share with all of you, because I want to thank all of you for a tremendous job well done by each and every one of you and your staff who participated in the Foodbank drive. This class has made history because we generated over \$16,000 and food supplies for the residents and the people of the State of Hawaii. Congratulations.

"In closing the Chair would like to recognize Representative Caldwell for a few words if he would like to, even though the Minority is not here, you may proceed."

Representative Caldwell: "Thank you, Mr. Speaker. I also wish the Minority was still here. We need both sides. It's good to have the debate, and it's unfortunate they're not here. I'd offered the Minority Leader a chance to also make a few comments and unfortunately that won't happen. I think we had a productive Session, Mr. Speaker and Members. We passed comprehensive measures that speak to action. It's more than just goal setting now. We're working to achieve them. And this is particularly true in three areas, and that's in renewable energy, agribusiness, and the environment.

"In past Sessions we set renewable energy standards and goals for reducing greenhouse gases. We also recognized that because of our isolated location, and the skyrocketing prices of petroleum, that we need to become more energy independent and we need to do it now. And therefore we are moving beyond goal setting and working to achieve those goals. The three areas, just a little more going down in detail are: renewable energy, this morning and this afternoon we passed the solar energy, hot water bill. It's an amazing piece of legislation, landmark legislation, that's going to go on all new

housing developments. We did photovoltaic on lower-grade agricultural lands, so we can farm the sun. We also have bills to incentivize residential photovoltaics and net energy metering, and we're allowing ag energy facilities on agricultural lands if 90% of their production goes to alternative energy.

"In the ag to energy, Mr. Speaker, I believe we passed landmark legislation today dealing with important ag lands. Something that the Constitutional Convention in 1978 set as a goal and we finally accomplished it. We really do need to thank the Chair of Water, Land, the Vice Chair of Water, Land, the Chair of Agriculture, the Vice Chair of Agriculture, and our Vice Speaker, who worked very hard, along with you, to get this legislation passed. And while there are parts that may trouble people, I believe that we're setting a standard and in the long run we're going to preserve the most valuable parts of agricultural lands in our State.

"In environment and conservation, Mr. Speaker, we had tax incentives to private landowners if they commit their lands in perpetuity to conservation. And we set up federal and State biosecurity facilities that the Chair of Agriculture worked so hard on. This is going to really protect the impact that we're seeing from the influx of so many invasive species. This is something that we cannot do later. We need to take action now.

"And then the recycling of electronic devices, landmark legislation we can join some of the other progressive states. And something kind of small but important, we have this issue of environmental assessments for small projects that look like it could shut down construction throughout our State, and through the hard work of the Chair of EEP and our Majority Floor Leader, they were able to work this out and avoid a crisis, and that's to their credit.

"So we're finally moving forward Mr. Speaker. We also did things on housing infrastructure. Remember last Session, we committed to affordable housing? We've done issues there and of course now we have the HUGS Harbor improvements we're committing over \$800 million to. We feel very good about this.

"In closing, Mr. Speaker, it's sad that we don't have the Minority here. We've had a difficult 24th Session. Oh, we have one Minority member. Thank you, Representative from Ewa. We really appreciate you coming back. Thank you. And she's smiling. Mr. Speaker, it's been difficult on a personal level for some of us. Some of us have lost both our parents. Others, one of our parents. Nothing is harder than losing a parent, no matter what your age is.

"We also have one of our members who is battling cancer. And his chair sits there, everyday, and his office is empty, and most of us miss not being able to go there to decompress, catch up, and get grounded. We wish him the very best and we've all signed a card to let him know that.

"On a good point, Mr. Speaker, one of our members is going to be a mama. She got married and she is going to have a baby. That's very positive. She's going to be a beautiful mother, and she's beautiful as a pregnant woman. She has that glow that only pregnant women can have.

"Finally Mr. Speaker, we're moving beyond goal setting, and that's good for our State. With that, we look forward to seeing all of you back next year to work hard, to do the people's work, to move our State forward. Thank you very much."

Speaker Say: "Representative Pine, the Chair would like to recognize you in representing the Minority Caucus."

Representative Pine: "This is a little unexpected, but I heard you talking about listening, and I was so moved to come back in here because we missed the time to talk about what's in our hearts. And I'm one of the descendants of the founding fathers, and lately I've been watching that movie 'John Adams' on HBO, and I was so

fascinated with how hard it was for them to really form our Constitution and put this country together. And even the last statement he says about his death, when he's up in heaven or wherever he believed he was going to be, he hoped that Americans wouldn't waste it, the freedoms that the Founding Fathers gave to us. I never thought that I would be a politician. I was supposed to be a broadcast journalist, but here I am today because I was moved to be a part of this process.

"And the reason why the Minority Caucus walked out today, Mr. Speaker, is because they feel that this body is not listening to the people of Hawaii, listening to the very people that elected a Governor. In every single one of our districts, she won. But we're not listening. Out of all the Democrat Governors that we have had, we've had one bill overridden. But since I have been in office, since the Governor's been in office, I can't even count them anymore. And she doesn't veto these bills because she's thinking about reelection, especially now we can see that. She's thinking and listening to every single person in all of our districts, because she believes that a bill, although the title is great, well intended, something could cause more harm than good.

"And we did do some wonderful, wonderful things. And I love all of you guys, I have to say, I really do. I used to hate Blake Oshiro, you know. But really, it's just about understanding that it is all about the words, and the book, and the law, and the statue. And then if you can debate that way, he's an okay guy. But really I just want to say, as we're taking a break starting tomorrow, let's remember when we weren't politicians and all of our hopes and our dreams that we had and what government could be. I think that if one day we just put aside the power. Power consumes you in this building. You get caught up with leadership fights and all these, 'whose bill gets killed' and whatever. But if we put hard feelings aside and look everything just intellectually, with our hearts, and what's good for the people of Hawaii. If everyone got to know the Governor personally, I feel so blessed that I get to know this woman on such a personal level, you will find that she's pretty cool, and that she'll listen to you. If you debate her with your heart and with your mind, and not by what Party that you come from.

"So I look forward to this next election, I do hope to see all of you back here. And I hope we come in here a little differently, not seeking any power for ourselves, but really to embrace what our Founding Fathers told us to do. Don't waste what they gave us. Thank you."

The Chair then stated:

"Thank you, very much. Before closing, for all of us, there is some sadness, because three of our colleagues will be leaving for the upper Chamber. At this time the Chair would like to have Chair Takamine, who is the senior member of this class who is leaving, to say a few words to the Members of our illustrious Chamber. Chair Takamine."

Representative Takamine gave his farewell remarks as follows:

"Thank you, Mr. Speaker. I guess it's been awhile now. Twenty-four years I've had the privilege and honor of being a Member of this body. I recall it was 25 years ago that I had the privilege of listening to one of the last Floor speeches of a former member of this body who had served his constituents for 26 years. His name was Yoshito Takamine. In his comments he had a sense of optimism about the future, about the future of this body, about the future of this institution. He pointed to the new members that had become part of the House, and I guess he made reference to the fact that they could be his grandchildren. But I think he saw that sense of idealism. And even though it might not have all been at the same level, it's important to have that desire to want to do the best job possible, to do good for the people of our State. And as I leave this Chamber, I have that same sense of optimism. I think as you look at the Members here and the gifts that each one brings to the table, I think the future is going to be good.

"And I wanted to kind of use this opportunity to really say thank you, Mr. Speaker, to you, and to my colleagues. You know earlier this evening Representative Manahan pointed out that it's still a special privilege to be one of 76, because that's a very special shared experience. And in the past years, I want to thank my colleagues, all of you, for the opportunity to learn from one another, for the opportunity to share experiences, for the friendships that have come about. Even for the Members of the body that I tended to disagree with more than agree, I want to say, thank you. Because I think the exchanges that occurred, sharing perhaps different ideas, helped me.

"Mr. Speaker, I guess the longer you stay a part of this body, the more you realize that to get anything done takes effort and support from so many. Certainly for me, I guess as I end this Session, I wanted to thank my staff: Cynthia, Robbie, Brev who's not here. I want to say thank you for your dedication, for your efforts, for your hard work. And I know for each of us it's the same feelings for our staff and those who help us. And it goes beyond that because certainly getting to know all of the people who make this institution run as well as it does, Pat and her staff, Kevin and his people, Linda, Rich, all of the others, all of the other groups of workers that allow us to do the job that we do. Thank you very, very much because that's such an essential part of the process.

"You know I'm not different from any other of the Members and in my situation my father had a tremendous impact on the path that I pursued. It was both of my parents, much like all of you, that played a fundamental role in allowing me to share these remarks tonight. And I know that, especially as we hit the campaign trail, our family members, especially our immediate family members, they're the ones who take the brunt of the sacrifices that need to be made so that we can have the opportunity that we have. Therefore I wanted to use the opportunity to say thank you to my *ohana*, my parents, my immediate family, siblings, and in my situation our boys, Galen, Trevor, and Aaron. And there's one person who has become a special partner and my very best friend. And to prove it, I guess she sat through hours and hours this afternoon of Final Readings and Veto Overrides and all of that. But if I could ask you to help me acknowledge my special partner, Carol.

"I'm no different than anyone here who sits in the Chamber and without the love and support of all of those people who make such a tremendous difference, it just adds to the quality, or even allows the possibility of the work that we do collectively. And certainly as has been indicated, without the support of our constituents, the privilege, the honor never happens. And I certainly would to thank all of those supporters, Mr. Speaker.

"Mr. Speaker, twenty-four years has been a tremendous educational experience for me. It's also been a hell of a ride, and therefore for this experience, to each and to every one of you, I want to say thank you, thank you very much. Thank you, Mr. Speaker."

The Chair then stated:

"The next individual that will be leaving, my nickname to him is the 'Filipino Flash'. Representative Sonson, please."

Representative Sonson gave his farewell remarks as follows:

"I don't like saying goodbyes. First I'd like to acknowledge my family: my wife Jennifer; Michael, my son who is 15 years old; my daughter, she's 9 going on 20; and Pufi. They're all my family that I've got. I lost my parents on the road to being a Member of this illustrious House. I'm honored to speak before you for the last time, and I know that some of you are saying, 'Oh yeah, great.' I'm also honored to hear you for the last time. I congratulate each of you for a job well done. For the State of Hawaii, we all work together to provide leadership in public service. As a result we bring honor to our institution, the House of Representatives. To serve with you it

has been an honor. And in saying goodbye, we must celebrate the choices and the sacrifices you have made to be part of this body.

"For the past 6 years that I have served with you I know we have delivered much to our communities. Together we have improved and provided education for our children, healthcare for the sick, caring homes for the homeless, the aged and the disabled. We brought hope for the working people of Hawaii.

"As we part, I challenge you not to rest on these successes but to continue to strive towards even loftier goals. Remember always that purposeful change is the sum of many individual decisions. Don't be afraid to take small actions every day. In the end they all add up. My hope for you is that you will cultivate this attitude as we return to our districts and to our own private lives.

"I learned many things these past 6 years. I learned that leadership is not about being elected or appointed to this office, because the office does not teach someone how to be a leader. Leadership is an attitude cultivated over time. Are you going to stand up for what you believe and face the music even when that music happens to be unpleasant? Do you have the purpose, and do you follow that purpose to get to the ends you desire? Do you have a vision? These are all questions that true leaders such as you must answer in the affirmative.

"Each small decision you make takes you one step closer. Remember the goal is not to get power, but to get your vision and your purpose across. Leaders without visions can be likened to driving in Leeward Oahu without a road map. We're all going to wind up somewhere, but it just might not be in the best part of Waipahu.

"Many see public service as a means to an end. To be popular through repetitive exposure and the media. Yeah, a lot of people saw me on TV, and they told me so. Some might see it as a way to improve their social life. While others may view it as a convenient means to assert power over another. But we all know that is not true public service. I say to you that public service is an attitude. We must do it for the right reasons. What I'm talking about is that in the end when it is all done and we part we can all look back and realize that we did something worthwhile. That maybe we helped our fellow man in some small way.

"I see that my time is up. I see your faces, and believe it or not I'm not as tough as I look. I want to cry when I see that I'm going to leave this House after six years. You know it took me eight years to get here. I wanted it so bad, and now I'm standing right here saying goodbye to all of you. I thank you for this honor. You are truly the best of the best. Enjoy yourself and I hope that I will see you again. Life is a promise, let us all fulfill it. Mabuhay. Diyos ti agngina."

The Chair then stated:

"And finally, for all of you, the sophomore Representative who has been here for 4 years who is our doctor in the Chambers and a great individual, Representative Josh Green."

Representative Green gave his farewell remarks as follows:

"Thank you, Mr. Speaker, for giving me this time. I'll just speak for a very brief time. I wanted to say it's been an honor to work with everyone. I'm a newcomer in many ways to Hawaii. I was a newcomer to Oahu. I'd actually never been to Oahu but for one time, and I sat next to Representative Luke when I was learning what it meant to be a candidate. So it was just one time. And when I came to Oahu, I didn't have a single acquaintance or friend, and I certainly leave this four-year period of life absolutely knowing that there are many, many friends and so many kind people that have been here for me.

"I want to say an important thank you to a few people, very specifically, Alika, who has been the core of my office, who has been absolutely a great friend, and I want to say that his best quality is a fierce loyalty. And I know we all have someone in our lives, in our offices that is like that. I've heard throughout the days and the years, always mention those people. But Alika's fierce loyalty for me, very much like a younger brother worried about his crazy older brother, on too many occasions, has been moving for me.

"Fele, who's sitting next to Alika, Fele is the smile of our office, that's her best trait. She never fails, never fails, to be happy and to help us get through the absurdity of sometimes what we're going through, and the petty fights that I pick, and the difficult times that we sometimes face. But Fele provided bounds for me while I was here, and so I wanted to thank her and I love her very much.

"Two other members of my team I wanted to honor, Nicholas and Alan, terrific young people that are part of our staff that just really were both family members and friends. Once again, they haven't had the same amount of time here, but we had such a small group and we had so much to hold us together through this year and years past that it's really one of those things that you feel really strongly about and you feel is very special in your life. People become a family that way and I think we've all experienced that.

"So I wanted to say that in first I'm grateful about these friendships that I've been honored with. I want to thank you for enduring in me what I know is an attitude on occasion, and an occasional stubborn arrogance. It's not lost on me that that's who I am. But I never meant it to hurt or offend. And it's really been pleasant to see every person here with their different qualities that they bring and to have been embraced by people has been important to me, I wanted you to hear that from me.

"I wanted to say that these four years were big in my life because as I got to know you, I met my wife like three days after I came to Oahu. I told you I didn't know anyone, and I met her and amazingly, got married and we have a child. And so you've shared that with me. I'll have memories long after someone kicks my butt and I don't see another minute in political office, or even get to come to Oahu. I'll remember my baby and my wife in those first years with you. Those are the memories that I'll have. And that means a lot in a person's life; how they share those first moments in their family.

"I want to acknowledge a couple people that were with me helping me so much throughout. Carl Silva, who was like a member of the team because we would focus so much on health issues all the time, I just wanted to say thank you to Carl. He is an excellent person and a quiet person who I probably wouldn't even sometimes think to acknowledge, but he is important to me.

"And I don't want to focus too much time on individuals because I care about everyone here, but Representative Mizuno, before he became an elected official was already a very close friend. And we even had a rollercoaster ride at different times. He yelling at me and vice versa, on rare occasions. But it was a special bond that after Chair Arakaki retired, who was obviously a mentor to me, much like Dwight was, and Speaker was. Chair Arakaki handed that over, that experience over to John, and he was close to me, so it was very important to have John with me.

"So I would just say, like Dwight, I'm very optimistic about the future. It shouldn't be cliché though because I look around and I see someone who may be the next Attorney General. Someone who'll be the next Governor in this room. Someone who will certainly, all of you are going to be leaders for so much time ahead, and it's really quite incredible to have this last moment to look at you and to realize that the next US Senator is probably going to come from here. Or the next Governor, in the years to come. And it's just an incredible thing for me to think about. So I'm honored to stand here for these last couple seconds with you.

"And I guess I just close with saying that I do wish for everyone completely to be well. So when you come to the Big Island and hurt yourself, or you have an unpleasant infection that requires discretion, Representative Nishimoto, or even if it's something as mundane as you've lost your prescription for Rogaine, Majority Leader Caldwell. You shouldn't be shy to call me, because I will be there for you. Thank you so much for having me."

At this time, the Chair addressed the Members, stating:

"So in closing, members of the House, let me say to all of you this. There are different agencies within this operation of this chamber that I think we should all recognize and applaud. Let us hold our applause until they are all recognized. Your officers of the State House of Representatives: Ms. Pat Mau-Shimizu. Pat would you please stand. Ms. CJ Leong. CJ would you please stand also. And their associates and employees of the Chief Clerk's Office, Ms. Denise Liu, who is seated. Denise would you stand. But all of the employees of the Chief Clerk Office who have made it so convenient for all of you in the processing and filing of Bills, Resolutions, Committee Reports, etc. That was one part of the operations. Even the Printshop, where Tammy is in charge.

"The Sergeant-at-Arms, Mr. Kevin Kuroda, Mr. Lon Paresa, and the Sergeant-at-Arms Office, who was there for you in trying to maintain your offices with the supplies and equipment and parking.

"The House Majority Staff Office, Ms. Linda Oamilda. Would you please stand, Linda. With our Chief Attorneys, which we are very fortunate to have, Mr. Richard Dvonch and Mr. Jim Funaki. Linda, would you please convey our thank you very much to the office for a tremendous job well done by their researchers and analysts. All of you have gone there for support and help, and you folks all know that.

"Ms. Georgette Deemer, Georgette, in representing the House in our public relations area. Mr. Chuck Freedman from Representative Caldwell's office. Chuck. And for all of you who have visited the offices, my two chiefs of staffs, Mr. 'BT' Brian Takeshita, Brian please stand, and Mr. Calvin Azama, who have assisted all of you when you have made the requests. Finally, Chair Oshiro, your Finance staff who have also done a tremendous job on behalf of this Chamber.

"So in closing, Members of the House would you please stand and give all the employees of the State House of Representatives a round of applause. And there's one group that I did miss, which the Majority Leader asked that I recognize. Representative Pine and Representative Ward, would you please submit the names of your Minority staff employees who have contributed so much to the operations of the Minority. The only person that I really know is Mr. Boyd Akase, who is not here. So once again, thank you, thank you very much for a job well done and best wishes and may the Lord be with all of you. Thank you."

The following is a list of all 2008 Session staff of the House of Representatives:

Representative Awana: Kanani Kaaiawahia Buluan, Enoka C. Lucas, Stevenson L. Samuelu, Anna L. Ventura

Representative Belatti: Francis H. Choe, Tiffany Kaeo, Lina M. Le, Kerianne M. Pascua, Kesha M. Wing

Representative Berg: Ria Leilani R. Baldevia, Curtis E. Johnson, Elizabeth A. Labby, Ian Y. Lind

Representative Bertram: Margaret L. Logotaeao, Leon R. Rouse

Representative Brower: Richard P. Halverson, Lei R. Learmont, Sherrie L. Thomas

Representative Cabanilla: Daniel P. De Gracia II, Philmund W.M. Lee, Christopher C. Manabat, Ilalo B. Parayno

Representative Caldwell: David K. Fry, Lisa M. Kane

Representative Carroll: Cole K. Horcajo, Anthony J. Moon, Kristen K. Souza

Representative Chang: Barbara D. Anderson, Bernardine F.L. Jay, Francine S. Kaneshige

Representative Ching: Ronda W. Ching-Day, Colette R. Devou, Amy L. Hammond

Representative Chong: Lody Aisha Allen, Jill M. Springer, Janine A. Tully

Representative Evans: Jon T. Alcos, Tom P. McAuliffe, Brian K. Tokuuke

Representative Finnegan: Kendall M. Amazaki Jr., Steven B. Antonio

Representative Green: Nicholas R. Green, Allen G. McCune, Felea'i S. Tau

Representative Hanohano: Mary L. Baker, Kaliko Chun, Anuhea P. Clark

Representative Har: Jonathan L. Allen, Warren P. Anderson, Leanne Y. Galanti, Shawn A. James Leavey, Jessica S. Rice, Michael J. Schowalter, En H. Young

Representative Herkes: Lance C. Ching, Noah H. Gibson, Susan E. Hampton, Robin L. Valentine-Kindred, Brian Y. Yamane

Representative Ito: Troy J.H. Andrade, Sharon H. Kanegawa, Kaye W. Lum, George J. Okuda

Representative Karamatsu: Carrie H. Azama, Brandon T. Lee

Representative Lee: Oldouz C. Behzad, Lloyd I. Nakahara, Linda E. Tanaka

Representative Luke: Janice R. Farrant, Micah E. Young

Representative Magaoy: Therace C. Fomin Walker, Judy L.H. Fomin, Walter Tonai

Representative Manahan: Gene A. Albano, Haylee D. Faustin, Allan E. Garcia

Representative Maurmoto: Judith L. Fadrowsky, Gaye M. Miyasaki, Maureen K. Muraoka

Representative McKelvey: Teriitavae K. Perez, Lauren A. Valle, Natalie Yribe

Representative Meyer: Leslie S. Chow, Reinalyn M. Terrado

Representative Mizuno: Josephine R. Besario, Edgar L. Fernandez, Alice S. Nakama, Leolani L. Oyama

Representative Morita: Chelsea L. Arnott, Marietta B. Smith

Representative Nakasone: Cody-Allen S. Ching, George I. Ito

Representative Nishimoto: Leah M. Ferrarone, Bryan J. Gallarde, Ty T. Nakatani, Jolyn Adele G. Prieto, Bryce R. Tanaka

Representative B. Oshiro: Kenneth G. Best, Kyle H. Kamidoi, Melita L.T. Lani

Representative M. Oshiro: Erik K. Abe, Akio H. Adams, Casey K. Ching, Jonathan D. Conner, Lauren M. Endo, Leslie R. Goo, Hunter C.A. Gradie, Daniel Han, Mary Ann A. Kawano, Shaun M. Kindred, Stanley T. Kubota, Allison G. Lee, Nicolette Rowe, Renwick V.I. Tassill, Jeffrey K. Yamashiro

Representative Pine: Mariano G. Doctolero, Rebecca D. Erickson, Lilia F. Lambinico, Venus K. Lee, Bianca I. Mordasini, Jame K. Schaedel

Representative Rhoads: Kapuaonalani Aiu-Yasuhara, Sonny Le, Stephen A. Lohse, Emily R. Viglielmo

Representative Sagum: Amy T. Maeda, Joyce H. Ohta, Florence H. Wakuya

Representative Saiki: April L.E. Pope, Jason M.A. Walter

Representative Shimabukuro: Wallace J. Inglis, Gerald M. Kita, Kristin H. Kline, Dana P. Newman, Jessie A. Torres

Representative Sonson: Vincente F. Aquino, Felice T. Guillermo, Ligaya V. Hartman

Representative Souki: Peggy J. Collier, Moses A. Lum Hoy, Vernon M. Souki

Representative Takai: Marnelli Joy L. Basilio, Cheryl A. Derby, Torano Harris, Sandra Kim, Shardae K. Marbley

Representative Takamine: Deborah R. Adams, Brevely A. Blas

Representative Takumi: Herbert N. Fujikawa, Brett R. Shintani, Tina N. Yamamoto

Representative Thielen: Michele E. Chess-McCoy, Audrea N. Nolan

Representative Tokioka: Raymond Adams, Reuben K. Kanoho, Chanel L. Williams, W. Mason Young

Representative Tsuji: Diana C. Hahn, Malina K. Iida, Ken T. Nakamoto

Representative Wakai: Karen M.L. Dang, Ryan T. Oishi, Jenna W.Y.C. Takenouchi, Joan S. Ushijima, Denise A. Wandasan

Representative Ward: Philip L. Draper, Marian J. Grey, Brian C. Shea

Representative Waters: Sheenah Maria T. Aflague, Sharon F. Basmayor, James Miura, Orrin H. Nakanelua, James J. Nelson, Chelsea K. Tanimura

Representative Yamane: Danielle M.M. Bass, Cathy T. Yasuda

Representative Yamashita: Emma L. Perry, Ian K. Ross, Jeannin-Melissa K. Russo

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Minority Research: Kristi L. Arakaki, Michael D. Foley, Krystal H. Leong, Tracy H. Okubo, Jayna A. Reynon, Emerito C. Saniatan, Paul L. Vierling

Clerks Office: Arlene C. Abiang, Richard N. Ah Lee Sam III, Luke B. Artiaga, Angel Fujihara, Tiffany M. Hill, Chi-Hwa Ho, Stefan P. Kelly, Gale Kuba, Hu Li, Natasha M. Lum, Lauren-Lee E. Moniz, Mike B. Nacar, Jenni M. Panoncial, Sheryll P. Pila, Patrick C. Richardson, Kelli K. Sterling, Sandy S. Suzuki, Jill M.

Takamatsu, Kent D. Takamoto, Natalie K. Villanueva, Tat Ming Woo, Scott K. Yamane, Misty M. Young, Diane A. Yukumoto

Printshop: Fritzi I. Belmore, Carol F. Cabebe, Kay K. DeMello, Karen Y. Ebisuya, Leonard C. Geronimo Jr., Kenneth M. Gibo, Bradley K. Haida, Roy H. Higa, Francine K. Hirata, Rosalind A. Ho, Robin E. Ide, Raul T. Juarez, Lorrin K. Kaalekahi Jr., Summer K. Kaleo, Jean Kinoshita, Elaine R. Miyamoto, Mitchell R. Osurman, Har Ping Pang, Mildred Y. Phillips, Estelita Pumares, Eleanor M. Riney, Alice A. Sato, Amy Y.M. Say, Linda Shishido, Shirley May Sing, Peggie R. Spencer, Stuart T. Suzuki, Aileen A. Tanaka, Curtis F. Yoshida, Wesley T. Yoshitake

Sergeant-At-Arms: Suzanne L. Apo, Francis J. Baysa, Yolanda M. Bryant, Matthew D. Daog, Roycen K. Dehmer, Kate S. Hirayasu, Kenneth K. Lee, Grant I. Miyake, Matt I.N. Oamilda, Kevin I. Omori, Jon M. Shitabata, Jacob E. Silva, Alfonso B. Singson, Jeffrey K. Spencer, Colleen B.J. Takenouchi, Richard H. Tamashiro, Mark H. Villamor, Raymond H. Yamane

Custodians: Dorothy S. Alvarado, Dolores E. Baysa

ADJOURNMENT

Representative Caldwell moved that the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, adjourn Sine Die, seconded by Representative Pine.

The motion was put to vote by the Chair and carried, and at 6:47 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, adjourned Sine Die. (Representatives Berg, Bertram, Cabanilla, Ching, Finnegan, Marumoto, Meyer, Nakasone, Sagum, Saiki and Thielen were excused.)

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 351 through 357, 359 and 361) were received by the Clerk and were placed on file:

Gov. Msg. No. 351, dated April 30, 2008, transmitting the Hawaii Department of Agriculture Annual Report for Fiscal Year 2007 & Statistics of Hawaii Agriculture 2006 as required by HRS 141-1(7).

Gov. Msg. No. 352, dated May 1, 2008, transmitting the Report pursuant to SCR 140/HCRCR 197 (2006) on Development of Master Plan and Financial Feasibility Report for Leahi Hospital, HHSC Oahu Region – Preliminary Planning Documents for Leahi Hospital.

Gov. Msg. No. 353, informing the House that on May 1, 2008, the following bill was signed into law:

S.B. No. 3185, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CANCER." (ACT 052)

Gov. Msg. No. 354, informing the House that on May 1, 2008, the following bill was signed into law:

S.B. No. 2782, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO METAL." (ACT 053)

Gov. Msg. No. 355, informing the House that on May 1, 2008, the following bill was signed into law:

S.B. No. 3006, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION." (ACT 054)

Gov. Msg. No. 356, informing the House that on May 1, 2008, the following bill was signed into law:

H.B. No. 2559, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM UNCLAIMED PROPERTY ACT." (ACT 055)

Gov. Msg. No. 357, informing the House that on May 1, 2008, the following bill was signed into law:

S.B. No. 2900, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS." (ACT 056)

Gov. Msg. No. 359, transmitting S.B. No. 2129, SD 2, HD 1, without her approval and statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2129

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2129, entitled "A Bill for an Act Relating to Elder Affairs."

The purpose of this bill is to authorize the Policy Advisory Board for Elder Affairs to testify before the Legislature on any matter related to its duties and responsibilities rather than having its communications with the Legislature go through the Executive Branch, including the Executive Office on Aging and the Director of Health, pursuant to section 26-35(a)(l), Hawaii Revised Statutes.

I believe communication between persons at all levels of the legislative and executive branches is vital to our ability to fulfill the responsibilities each of us is assigned by the Constitution and laws of the State.

It is my understanding that individual members of boards and commissions, including this Board, testify regularly and respond to requests from individual members and committees of the Legislature. Boards and commissions also take official positions on bills pending before the Legislature and, when doing so, coordinate this testimony through the appropriate department and agency to which they are attached.

This Board and its members are clearly already able to testify in their individual capacities on matters before the Legislature. Because procedures are already in place for all commissions to communicate, including the Policy Advisory Board for Elder Affairs, and, more importantly, are being used regularly, this bill is not needed. It would be inappropriate to allow one Board, out of over 160 existing boards and commissions, to bypass the existing statutory process.

For the foregoing reasons, I am returning Senate Bill No. 2129 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 361, transmitting S.B. No. 2828, SD 2, HD 2, without her approval and statement of objections relating to the measure as follows:

"EXECUTIVE CHAMBERS
HONOLULU
May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2828

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2828, entitled "A Bill for an Act Relating to Disaster Relief."

The purpose of this bill is to confine the Governor's power to provide relief for disasters caused by events other than acts of nature, enemy attack, or acts of terrorism, solely to the period immediately after a man-made disaster occurs until the Legislature acts to provide further relief in a regular or special session. It also limits the extent to which the Governor may suspend laws to provide relief for man-made disasters only until the next occurring regular session of the Legislature is adjourned sine die, unless the suspension of laws is extended by a concurrent resolution or legislative enactment.

Unless the Legislature is already sitting in a regular session, the Legislature will have to be called into special session every time a disaster occurs that falls outside the narrow scope of this bill.

This measure is particularly onerous because the substantial restrictions placed on the State's ability to respond to disasters in the future, are also imposed on disaster relief efforts that are currently underway, unless the Legislature permits them to continue by concurrent resolution. Allowing this measure to become law could prevent us from completing on-going efforts to shelter and provide needed health and social services for the homeless on Oahu.

This bill also creates substantial potential legal issues for the several emergency proclamations pursuant to which disaster relief for the homeless is currently being provided. This bill terminates those proclamations immediately--creating significant uncertainty. This immediate termination is inappropriate.

The full panoply of the State's resources should be available to respond to every disaster that may threaten the community. The Governor should not be precluded from utilizing those resources until the Legislature gives its permission to act.

For all of these reasons, therefore, I am returning Senate Bill No. 2828 without my approval.

Respectfully,
/s/
LINDA LINGLE
Governor of Hawaii"

HOUSE COMMUNICATIONS

House Communication dated May 1, 2008, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the following bills have this day passed Final Reading in the House of Representatives:

H.B. No. 357, HD 2, SD 1, CD 1
H.B. No. 1412, HD 1, SD 1, CD 1
H.B. No. 2293, HD 1, SD 2, CD 2
H.B. No. 2505, HD 2, SD 2, CD 1
H.B. No. 2507, HD 1, SD 2, CD 1
H.B. No. 2531, HD 1, SD 2, CD 1
H.B. No. 2704, HD 2, SD 1, CD 1
H.B. No. 2843, HD 2, SD 2, CD 1
H.B. No. 2863, HD 2, SD 2, CD 1
H.B. No. 2872, SD 2, CD 2
H.B. No. 3120, HD 2, SD 1, CD 1
H.B. No. 3352, HD 2, SD 2, CD 1
H.B. No. 3377, SD 2, CD 1

S.B. No. 156, SD 2, HD 2, CD 1
 S.B. No. 644, SD 3, HD 3, CD 1
 S.B. No. 871, SD 2, HD 2, CD 1
 S.B. No. 1804, SD 2, HD 2, CD 1
 S.B. No. 2082, SD 2, HD 1, CD 1
 S.B. No. 2083, SD 2, HD 1, CD 1
 S.B. No. 2198, SD 2, HD 2, CD 2
 S.B. No. 2262, SD 1, HD 2, CD 2
 S.B. No. 2423, SD 2, HD 2, CD 1
 S.B. No. 2499, HD 1, CD 2
 S.B. No. 2646, SD 2, HD 2, CD 1
 S.B. No. 2850, SD 2, HD 2, CD 1
 S.B. No. 2915, SD 2, HD 1, CD 1
 S.B. No. 3174, SD 2, HD 2, CD 1
 S.B. No. 3252, SD 2, HD 2, CD 1

House Communication dated May 1, 2008, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day, agreed to the Senate amendments of the above titled Bill *[sic]* and passed said Bill on Final Reading.

H.B. No. 1755, H.D. 1, S.D. 1
 H.B. No. 2387, H.D. 1, S.D. 2
 H.B. No. 2605, H.D. 2, S.D. 1
 H.B. No. 2710, H.D. 2, S.D. 2
 H.B. No. 3150, H.D. 2, S.D. 1

House Communication dated May 1, 2008, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has agreed to the amendments made by the Senate and has this day adopted the following House Concurrent Resolutions:

H.C.R. No. 21, HD 1, SD 1
 H.C.R. No. 62, HD 1, SD 1

House Communication dated May 1, 2007 *[sic]*, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered House Bill No. 7, HD 1, SD 1 heretofore vetoed as set forth in Governor's Message dated May 1, 2008, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, is entitled.

House Communication dated May 1, 2007 *[sic]*, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered Senate Bill No. 868, SD 2 heretofore vetoed as set forth in Governor's Message dated April 22, 2008, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, is entitled.

House Communication dated May 1, 2007 *[sic]*, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered Senate Bill No. 2779, HD 2, heretofore vetoed as set forth in Governor's Message dated May 1, 2008, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, is entitled.

House Communication dated May 1, 2007 *[sic]*, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered Senate Bill No. 2898, SD 1, heretofore vetoed as set forth in Governor's Message dated April 22, 2008, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, is entitled.

House Communication dated May 5, 2008, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on May 1, 2008, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, reconsidered House Bill No. 7, HD 1, SD 1, heretofore vetoed as set forth in a Governor's Message dated May 1, 2008, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 7, HD 1, SD 1, designated as Act 59 of the Twenty-fourth Legislature of the State of Hawaii, was enclosed.

OTHER COMMUNICATIONS

Senate Communication transmitting a copy of the document certifying that on May 1, 2008, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, reconsidered Senate Bill No. 868, SD 2, heretofore vetoed as set forth in a Governor's Message dated April 22, 2008, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 868, SD 2, designated as Act 60 of the Twenty-fourth Legislature of the State of Hawaii, was enclosed.

Senate Communication transmitting a copy of the document certifying that on May 1, 2008, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, reconsidered Senate Bill No. 2779, HD 2, heretofore vetoed as set forth in a Governor's Message dated May 1, 2008, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2779, HD 2, designated as Act 61 of the Twenty-fourth Legislature of the State of Hawaii, was enclosed.

Senate Communication transmitting a copy of the document certifying that on May 1, 2008, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, reconsidered Senate Bill No. 2898, SD 1, heretofore vetoed as set forth in a Governor's Message dated April 22, 2008, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2898, SD 1, designated as Act 62 of the Twenty-fourth Legislature of the State of Hawaii, was enclosed.