

NINETEENTH DAY

Thursday, February 19, 2009

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2009, convened at 12:06 o'clock p.m., with Vice Speaker Magaaoay presiding.

The invocation was delivered by Reverend Shuji Komagata of the Aiea Soto Mission, after which the Roll was called showing all Members present with the exception of Representatives M. Oshiro, Souki, Takai, Takumi and Ward, who were excused.

On motion by Representative Evans, seconded by Representative Pine and carried, reading of the Journal was dispensed with and the Journals of the Eleventh, Twelfth and Thirteenth Days were approved. (Representatives M. Oshiro, Souki, Takai, Takumi and Ward were excused.)

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 250) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 250, informing the House that on February 18, 2009, the following bill was signed into law:

H.B. No. 302, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN." (ACT 001)

INTRODUCTIONS

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

Representative Bertram introduced Ms. Taryn Kiyota, Miss Kihei 2009. She was accompanied by her mother, Mrs. Cory Kiyota.

Representative Wakai introduced 4th grade students from Salt Lake Elementary School. They were accompanied by their teachers: Ms. Katrino Loo, Ms. Tyra Menolascino, Ms. Susan Ching, Ms. Shari Higashi, and medical student, Mr. Ryan Chase; and chaperones, Mrs. Venetta Birgado, Mr. Greg Hirashiki, Ms. Stacy Johnson and Mrs. Fenghua Coke.

Representative Nakashima introduced Mr. David Marshall of the First District, member of the State Transportation Commission.

Representative Finnegan introduced Mr. Justin Menolascino who was accompanying the students from Salt Lake Elementary School.

ORDER OF THE DAY

COMMITTEE REASSIGNMENTS

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

<u>H.B. Nos.</u>	<u>Re-referred to:</u>
352	Committee on Finance
382	Committee on Judiciary
688	Committee on Public Safety, then to the Committee on Finance
697	Jointly to the Committee on Health and the Committee on Human Services, then to the Committee on Finance

698	Jointly to the Committee on Health and the Committee on Human Services, then to the Committee on Finance
861	Committee on Finance
921	Committee on Water, Land, & Ocean Resources
988, HD1	Jointly to the Committee on Economic Revitalization, Business, & Military Affairs and the Committee on Agriculture, then to the Committee on Finance
1043	Committee on Finance
1317, HD1	Committee on Health, then to the Committee on Finance
1486	Jointly to the Committee on Health and the Committee on Public Safety
1526, HD1	Committee on Health, then to the Committee on Finance

STANDING COMMITTEE REPORTS

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 387) recommending that H.B. No. 1061, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1061, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 388) recommending that H.B. No. 1072, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1072, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 389) recommending that H.B. No. 1074, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1074, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 390) recommending that H.B. No. 865, pass Second Reading and be referred to the Committee on Water, Land, & Ocean Resources.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 865, entitled: "A BILL FOR AN ACT RELATING TO

TRANSPORTATION," passed Second Reading and was referred to the Committee on Water, Land, & Ocean Resources with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 391) recommending that H.B. No. 140, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 140, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 392) recommending that H.B. No. 557, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 557, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 393) recommending that H.B. No. 771, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 771, HD 1, entitled: "A BILL FOR AN ACT RELATING TO YOSCOOTERS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 394) recommending that H.B. No. 267, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 267, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Takai, Takumi and Ward being excused.

Representatives Souki and Rhoads, for the Committee on Transportation and the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 395) recommending that H.B. No. 1502, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1502, entitled: "A BILL FOR AN ACT RELATING TO TELEWORK," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Cabanilla and Ito, for the Committee on Housing and the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 396) recommending that H.B. No. 354, as amended in HD 1, pass Second Reading and be referred to the Committee on Transportation.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 354, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Second Reading and was referred to the Committee on Transportation with Representatives Takai, Takumi and Ward being excused.

Representatives Cabanilla and Ito, for the Committee on Housing and the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 397) recommending that H.B. No. 363, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 363, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 398) recommending that H.B. No. 1279, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1279, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

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

"Mr. Speaker, I will be voting 'no' on this particular bill. The proposal allows employers to seek reimbursement for sums that were paid for medical services after the medical cut-off date from pre-paid health contractors or for other appropriate insurers. But, if the treatment is deemed for unreasonable and unnecessary care, these contractors will not pay for this care. So, the employer will be stuck with the whole thing, and I don't think this is fair. It will lead to increased workers' comp. premiums. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1279, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Finance with Representative Marumoto voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 399) recommending that H.B. No. 334, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 334, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY REINTEGRATION," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 400) recommending that H.B. No. 386, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 386, entitled: "A BILL FOR AN ACT RELATING TO PAROLE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 401) recommending that H.B. No. 413, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 413, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 402) recommending that H.B. No. 414, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 414, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 403) recommending that H.B. No. 845, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 845, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A COMMUNITY CENTER AND DISASTER SHELTER IN HAWAIIAN OCEAN VIEW COMMUNITY ESTATES, HAWAII," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 404) recommending that H.B. No. 226, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 226, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

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

"I just wanted to note my reservations. I understand that Standing Committee Report 404 would allow a qualifying patient to possess, now 12 marijuana plants to help with their medical ailments.

"By allowing this to be legal, we're still having complications with the Federal Drug Administration, as well as our Anti-Narcotics Division who is currently fighting the fact that marijuana is the number two drug of choice among our high school students. I know as we debate whether this drug is good for medical use or not, it's still just very complicated when the federal government alone does not believe that this should be legal."

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

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

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in opposition of H.B. 226 – which proposes certain amendments to the medical use of marijuana law. These amendments include: allowing a qualifying patient to possess 12 marijuana plants and 7 ounces of marijuana at one time; prohibiting identification of the site where marijuana is grown on a registry card; prohibiting a

certifying physician from naming a patient's particular debilitating condition; allowing a caregiver to grow marijuana for no more than 5 patients.

"First, I am concerned that the possession of 12 plants and 7 ounces of usable marijuana maybe too much for medical use and may increase the possibility of diversion to the streets and schools.

"Second, as Captain Louis Kealoha of the Honolulu Police Department stated "We are concerned about the portion of the bill that prohibits identification of the site where the marijuana is grown on a registry card and prohibits a certifying physician from naming a patient's debilitating condition."

"Third, the extreme confidentiality with regard to certain information proposed by the bill is troublesome. The proposed amendment to not require the signing physician on the certificate to be the patient's primary care physician may invite abuse of the program by physicians that just sign certificates and never examine or establish a medical relationship with the patient.

"Additionally as the Honolulu Police Department states "Not disclosing the location where marijuana is grown and prohibiting a certifying physician from naming a patient's particular debilitating condition will encourage some people to undermine the intent of the bill and exploit medical marijuana."

"The fact that Hawaii already has a problem with marijuana is cause for concern in relation to the possible abuse of H.B. 226. Thank you."

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

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

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

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

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

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

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

"I am speaking in favor of the bill, Mr. Speaker. And, even though this wasn't generated by me, I do support any kind of reform that could come along; I know there are several bills out there.

"And just to answer the few concerns that were expressed. Nobody else mentioned anything. But, as far as the federal prohibition against this, I think a spokesman for President Obama made it quite clear, that the DEA will no longer be going after these types of issues, especially the medical issues. So, that's changing, and it will probably become official within the next six months to two years. But this has been one of his campaign promises, to leave it to the states to determine the way they'd like to treat medical marijuana.

"And then the other thing, of course, is just that we still don't know what the proper amounts are, when you're talking about twelve or seven or whatever it is. The fact of the matter is that, it's a plant. So if a plant doesn't produce every two months the way you would hope, if you're trying to get a medicine out of it, then you have to rely on what you have. So, it's important that there be some kind of way of assuring people rational, good access that's going to be there when they need it. And so, whether it's twelve or seven or whatever, we do need to look at those issues, and I think these are good steps in the right direction. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 226, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL MARIJUANA," passed Second Reading and was referred to the Committee on Judiciary with Representatives Carroll, Ching, Finnegan, Har, Manahan, Marumoto, McKelvey, Tokioka and Yamane voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 405) recommending that H.B. No. 421, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 421, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

"I'd like to speak in opposition to this bill, Mr. Speaker. Stand. Com. Rep. No. 405 basically repeals the 'three strikes law', which requires that habitual, violent offenders be sentenced to prison for 30 or life. The 'three strikes law' that we passed many years ago was definitely watered down from what was originally proposed.

"So, what does 'habitual violent offender' mean according to this current bill? Basically, a habitual violent offender is someone who kills three people, someone who rapes three different children, and so forth. And so what we're saying today, by passing this bill, is that we want these people out of jail.

"The purpose of why this was introduced, according to my notes here, was that this didn't help reduce the safety of the community, that our prisons were being overpopulated. So then, I can surmise from the purpose of the introduction of this, because our prisons are overpopulated, we want to release the guy that killed three different people. Because our prisons are overpopulated, we want to release the person that raped three of those different children.

"We have made this law very extreme, where you have to be the worst of the worst for the 'three strikes law' to apply to you. And so, I just don't agree in the direction of approving these types of criminals being put back into our community."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Pine be entered into the Journal as her own, and the Chair "so ordered."

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in strong opposition to Standing Committee Report No. 405, House Bill 421, relating to sentencing. This measure would repeal the "three strikes law" codified as Act 81 which requires habitual violent felons to be sentenced for 30 years to life.

"I strongly oppose the repeal of Act 81. A majority of crime is committed by repeat offenders. In consideration of the victims of violent crimes, the continuation of this Act is essential to keep repeat offenders in prison. With the certainty of a lifetime sentence, this law acts as a very effective deterrent after a second conviction. While a concern is that non-violent offenders would be unjustly affected, please note that Act 81 only applies to persons convicted three times of murder, manslaughter, assault in the first degree, kidnapping, sexual assault in the first or second degree, continuous sexual assault of a minor, robbery in the first or second degree

and burglary (when at least one of the prior offenses is for an enumerated offense other than burglary).

"Lesser non-violent offenders do not fall under Act 81, unlike the widely criticized "three strikes" laws of other jurisdictions. For these reasons, I stand in strong opposition to this bill. Thank you, Mr. Speaker.

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

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 421, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," passed Second Reading and was referred to the Committee on Judiciary with Representatives Ching, Finnegan, Har, Marumoto, Pine and Thielen voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 406) recommending that H.B. No. 558, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 558, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 407) recommending that H.B. No. 1470, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1470, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC PROCUREMENT CODE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 408) recommending that H.B. No. 961, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 961, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 409) recommending that H.B. No. 1758, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1758, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC PROCUREMENT CODE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 410) recommending that H.B. No. 1768, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1768, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 411) recommending that H.B. No. 560, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 560, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 412) recommending that H.B. No. 1405, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1405, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 413) recommending that H.B. No. 699, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 699, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 414) recommending that H.B. No. 1419, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1419, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Ward rose, stating:

"Mr. Speaker, I rise in support and against Stand. Com. No. 414. I'm between a 'with reservation' and a 'no,' and let me explain, if I can, very

briefly. This is a bill that says, no protesting at a veteran's funeral. You have to be 300 feet away. Where it bothers me, is that the soldiers that have died, died protecting the freedoms of this country. They died to protect the freedoms of the First Amendment, and the protesters to go and protest.

"Where I feel we're kind of in between there, is that it is a little bit of a mushy place where government says that we feel strongly about one thing, but we don't in another. So what I would say is that it's not a problem in Hawaii. It's a mainland problem. This is a preemptive strike, and if there's any advice to the Judiciary, look at it as a First Amendment issue. We got to have family decorum. We have got to respect the life of the dead, we've got to not do what is being done, but at the same time, we don't want to ravel those rights that these guys and gals have died for. Mr. Speaker, that's where I'm in between. I'm voting whatever is between a 'no' and any 'aye with reservations.'"

Vice Speaker Magaoy addressed Representative Ward, stating:

"Representative Ward, is that with reservations?"

Representative Ward: "I'm between a 'with reservations' and a 'no.' Okay, I will vote 'no' until the Judiciary Committee says otherwise."

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

"Thank you very much, Mr. Speaker. In strong support, and just a few comments. I respect the comments of the previous speaker, but the First Amendment rights have always been available to what they call 'reasonable restrictions.' If you read the bill, you can go beyond the 300 foot limit and you can protest. You can make your voice heard.

"But what is wrong, Members, with giving the family who's lost their loved one in a war, the right to be able to peacefully bury their relative? Think about it. Think about this. Think of your son or daughter, who lost their life in a conflict, and you have somebody with a sign, right there during the service, saying, 'God deserved to make them die.' That, Mr. Speaker, goes far beyond First Amendment rights.

"What the bill says is, there's a 300 foot buffer for 60 minutes before or after the service. They can go 310 feet. They can go 320 feet, and they can protest. They can, you know, 'go nuts', for lack of a better word. But what is wrong with giving the family the dignity to be able to bury somebody who they've lost, without having hateful messages directed at them in this time of personal and emotion turmoil?"

"The First Amendment rights, I think my record on that is clear. I support them, I always have and will. But this is a very reasonable restriction upon those rights. To give the families of loved ones, who've lost their member, the ability to just be able to quietly and peacefully and with dignity, say goodbye to them.

"And Mr. Speaker, veterans did die for our freedoms, but you know what, I think that giving the families the ability to be able to say goodbye to their family members and to be able to do it in a quiet and dignified manner, is not too much to ask. They died for rights, but they also died for the right of privacy, Mr. Speaker. They died for the right to protect the individuals from needless, I guess, protest. I mean, Mr. Speaker, this is a very reasonable request, and they can have their say 24/7/365 days thereafter. But 60 minutes before and 60 minutes after and 300 feet is not unreasonable. Not given the sacrifice that these families have had to go through and not given the terrible price that they have had to pay. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I think that this is a step towards a more civil society and a good message on behalf of us and the government. And I'd like to ask that the words of the speaker from Lahaina be entered as my own," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1419, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS RIGHTS AND BENEFITS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 415) recommending that H.B. No. 1443, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Housing and the Committee on Water, Land, & Ocean Resources.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1443, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME OCCUPATIONS," passed Second Reading and was referred jointly to the Committee on Housing and the Committee on Water, Land, & Ocean Resources with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 416) recommending that H.B. No. 549, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 417) recommending that H.B. No. 1012, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1012, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT SHARED SERVICES TECHNOLOGY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 418) recommending that H.B. No. 1207, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1207, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 419) recommending that H.B. No. 1586, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1586, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 420) recommending that H.B. No. 1310, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

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

1310, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 421) recommending that H.B. No. 1145, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1145, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REMNANT LANDS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 422) recommending that H.B. No. 593, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 593, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SHORELINE SETBACKS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 423) recommending that H.B. No. 1552, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 424) recommending that H.B. No. 1712, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1712, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1712, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING," passed Second Reading and was referred to the Committee on Finance with Representative Thielen voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 425) recommending that H.B. No. 1604, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1604, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Ito, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 426) recommending that H.B. No. 1693, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1693, entitled: "A BILL FOR AN ACT RELATING TO WEST OAHU," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Ito and Tsuji, for the Committee on Water, Land, & Ocean Resources and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 427) recommending that H.B. No. 241, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 241, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Ito and Tsuji, for the Committee on Water, Land, & Ocean Resources and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 428) recommending that H.B. No. 1436, as amended in HD 1, pass Second Reading and be referred to the Committee on Education.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1436, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Education with Representatives Takai, Takumi and Ward being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 429) recommending that H.B. No. 828, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 828, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

"Mr. Speaker, on Stand. Com. Rep. 429. Basically, what this Stand. Com. Report 429 does, is it basically provides that any public housing project that is constructed or managed with the State or county, basically be affordable forever in perpetuity.

"I am voting with reservations. Basically, to make it affordable forever. I truly believe that is a great intent. But the only problem is, is sometimes when the market changes, you find that there's a certain building that we have, that's affordable, that perhaps we don't have enough funding, like this year, to build more affordable housing, but we see a great opportunity of selling a couple of units that's in a great location, at a much higher price, where we can get a very huge profit. And from that one unit, perhaps, we could fund five or six or seven, or even ten more, to help not just one family, but ten families.

"So, that's my reservation. That we're really handcuffing possible opportunities that may arise in the future."

Representative Shimabukuro rose in support of 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:

"I am in strong support of HB 828. In response to the previous speaker, I cannot support the sale of public housing. The vast majority of public lands held by the State are ceded lands. The claims of the Hawaiian people for reparations from the U.S. following the illegal overthrow of their Kingdom are still unresolved. This is why our State Supreme Court

banned the sale of ceded land; and this is why many are calling on this Legislature to enact a moratorium on the sale of ceded land. With a complete inventory of ceded lands still incomplete, we should not allow publicly held land to be sold, period.

"Furthermore, public housing is part of the public trust, and the State has a fiduciary duty to use public trust lands for the betterment of Native Hawaiians. We all know that land is extremely scarce in Hawaii; why else would forced lease-to-fee conversion be so controversial? Many landowners feel that no amount of money can compensate for the loss of this precious commodity.

"The State should take the same tactic; no matter how good a deal may seem today, the money earned will be spent swiftly at the discretion of HPHA. On the other hand, land that remains in the State's trust will continue to be passed to the next generation, and so on, leaving a priceless legacy that is guaranteed to increase in value over time.

"Finally, I should remind this body that HB 828 is the same bill we passed last year. The Governor vetoed it because she wanted the definitions of "affordable" tightened. We have addressed the Governor's concerns in this version of the bill. I urge my colleagues 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. 828, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 430) recommending that H.B. No. 1221, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1221, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING PROJECTS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 431) recommending that H.B. No. 202, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 202, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 432) recommending that H.B. No. 1591, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1591, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 433) recommending that H.B. No. 1438, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1438, HD 1, entitled: "A BILL FOR AN ACT RELATING TO

MORTGAGE LOAN ORIGINATORS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Herkes and Karamatsu, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 434) recommending that H.B. No. 1051, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1051, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EMERGENCY PREPAREDNESS," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 435) recommending that H.B. No. 358, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 358, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG TREATMENT," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 436) recommending that H.B. No. 1094, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1094, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERMANENCY HEARINGS," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 437) recommending that H.B. No. 1174, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1174, HD 2, be referred to the Committee on Finance, seconded by Representative Evans.

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

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

"Mr. Speaker, I'd like to ask for a ruling on a potential conflict. At my law firm, I am one of the attorneys that has sued the University of Hawaii and Board of Land and Natural Resources over their Mauna Kea management," and the Chair ruled, "no conflict."

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

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

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

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

"Mr. Speaker, I will vote with reservations on this particular measure. I did not have any problems with the University managing Mauna Kea, but I was puzzled by the references to exclusions from Chapter 91 in this measure. So, I will study this bill further before the final passage. Thank you."

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

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

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

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1174, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was referred to the Committee on Finance with Representatives Berg, Carroll, Hanohano, Har, Luke, McKelvey, Shimabukuro, Thielen and Wooley voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 438) recommending that H.B. No. 37, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 37, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

"Yes, I have reservations on this bill. Basically what this bill does is it repeals the constitutional amendment that will require us to give a tax refund after we've had two years of five percent excess in the general fund revenues.

"I do understand, during this time, why we have this purpose, but I'm just really concerned that we need perhaps spend a little bit even more frivolously, by not having this provision held on the Legislature and the Governor."

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

"Mr. Speaker, I am opposed to repealing this constitutional amendment. I think we should retain this amendment on excess revenues, because it makes us very conscious when we do have a surplus in our treasury. There are times when we have offered only \$1 back to the taxpayers. But, on other occasions, I think we've given \$100, or maybe even \$150. The economy is very cyclical.

"We're looking at, maybe a deficit of \$600 million, if you consider all of the appropriation bills before us at this time. But, at times past, we've seen revenues in excess of \$700 million. So, we definitely should keep this on the books, and use it.

"The amount is set by the Legislature that we determine whether we should give back, so I think it is flexible enough for us to live with. So, please consider not passing this bill. Thank you very much."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 37, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, TO REPEAL THE REQUIREMENT THAT A TAX REFUND OR TAX CREDIT BE PROVIDED TO TAXPAYERS WHENEVER THE GENERAL FUND BALANCE AT THE CLOSE OF TWO SUCCESSIVE FISCAL YEARS EXCEEDS FIVE PERCENT OF GENERAL FUND REVENUES FOR EACH OF THE TWO FISCAL YEARS," passed Second Reading and was referred to the Committee on Finance with Representatives Finnegan, Marumoto and Thielen voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 439) recommending that H.B. No. 268, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 268, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 268, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Second Reading and was referred to the Committee on Finance with Representative Thielen voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 440) recommending that H.B. No. 275, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 275, entitled: "A BILL FOR AN ACT RELATING TO MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 441) recommending that H.B. No. 1098, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1098, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Mizuno and Yamane, for the Committee on Human Services and the Committee on Health presented a report (Stand. Com.

Rep. No. 442) recommending that H.B. No. 706, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 706, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Mizuno and Yamane, for the Committee on Human Services and the Committee on Health presented a report (Stand. Com. Rep. No. 443) recommending that H.B. No. 824, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 824, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Mizuno and Yamane, for the Committee on Human Services and the Committee on Health presented a report (Stand. Com. Rep. No. 444) recommending that H.B. No. 1065, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1065, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF HUMAN SERVICES TO ADDRESS THE BUDGET SHORTFALL," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Mizuno and Yamane, for the Committee on Human Services and the Committee on Health presented a report (Stand. Com. Rep. No. 445) recommending that H.B. No. 1454, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1454, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Mizuno and Carroll, for the Committee on Human Services and the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 446) recommending that H.B. No. 798, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 798, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 447) recommending that H.B. No. 1514, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1514, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1514, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL TORTS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 448) recommending that H.B. No. 1611, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1611, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABELING OF MEAT AND FISH PRODUCTS," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Hanohano, for the Committee on Health and the Committee on Public Safety presented a report (Stand. Com. Rep. No. 449) recommending that H.B. No. 317, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 317, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

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

Representative Yamane's written remarks are as follows:

"Mr. Speaker, I rise in strong support of this measure. The recent increase in vog air pollution has emphasized negative health effects, which the people of Hawaii suffer from this natural disaster. The lack of access to adequate medical care for many on the southern portion of the island of Hawaii is of great concern. Steps must be taken at the local, state and federal levels in order to protect the current and future wellbeing of the population.

"In order to most effectively and immediately address these concerns, H.B. 317 provides for the establishment of a mobile medical van program, to serve the people of South Kona, Ka'u and upper Puna. The mobile medical van shall administer medical services to these communities, respond to emergencies, and coordinate with the Department of Education to provide immediate medical services to affected schools.

"This project will be funded by the Department of Land and Natural Resources, in coordination with the Department of Health, through the receipt of federal funds under the Homeland Security Grant Program. The intent of this measure is also to use the prospect of these appropriations to motivate a funding partnership to preserve and continue the operation of this program beyond its inception.

"As an imminent threat to the health and safety of the people of Hawaii, the issue of vog and the lack of adequate medical care must be addressed immediately and effectively, Mr. Speaker and the establishment of a mobile medical van program will do so."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 317, entitled: "A BILL FOR AN ACT RELATING TO MOBILE MEDICAL CARE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Mizuno, for the Committee on Health and the Committee on Human Services presented a report (Stand. Com. Rep. No. 450) recommending that H.B. No. 893, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 893, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Mizuno, for the Committee on Health and the Committee on Human Services presented a report (Stand. Com. Rep. No. 451) recommending that H.B. No. 324, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 324, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SENIOR CENTERS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Mizuno, for the Committee on Health and the Committee on Human Services presented a report (Stand. Com. Rep. No. 452) recommending that H.B. No. 1527, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1527, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Mizuno, for the Committee on Health and the Committee on Human Services presented a report (Stand. Com. Rep. No. 453) recommending that H.B. No. 725, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 725, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 454) recommending that H.B. No. 795, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 795, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 795, entitled: "A BILL FOR AN ACT RELATING TO THE PROHIBITION OF MINORS FROM THE USE OF ALL-TERRAIN VEHICLES," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 455) recommending that H.B. No. 1520, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1520, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1520, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE REVOCATION," passed Second Reading and was referred to the Committee on Judiciary with Representative Finnegan voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 456) recommending that H.B. No. 72, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 72, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Tokioka, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 457) recommending that H.B. No. 707, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 707, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE AUDITOR," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Yamane and Takumi, for the Committee on Health and the Committee on Education presented a report (Stand. Com. Rep. No. 458) recommending that H.B. No. 1538, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 1538, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTALLY-SENSITIVE PRODUCTS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 459) recommending that H.B. No. 553, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 553, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ENTERPRISE ZONES," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 460) recommending that H.B. No. 1633, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1633, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1633, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOXIC PRODUCTS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 461) recommending that H.B. No. 1636, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1636, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL PHYSICIANS," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 462) recommending that H.B. No. 310, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 310, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 310, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL TORTS," passed Second Reading and was referred to the Committee on Judiciary with Representative Rhoads voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 463) recommending that H.B. No. 608, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 608, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 464) recommending that H.B. No. 807, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 807, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 807, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICAL CLAIM CONCILIATION PANEL," passed Second Reading and was referred to the Committee on Judiciary with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 465) recommending that H.B. No. 1213, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1213, HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative Evans.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1213, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary with Representative Finnegan voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 466) recommending that H.B. No. 1208, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1208, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL CARE," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 467) recommending that H.B. No. 1209, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1209, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 468) recommending that H.B. No. 895, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 895, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 469) recommending that H.B. No. 692, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 692, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN'S HEALTH CARE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 470) recommending that H.B. No. 1782, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1782, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INFORMATION EXCHANGE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 471) recommending that H.B. No. 819, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 819, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Karamatsu, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 472) recommending that H.B. No. 423, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 423, HD 2, be referred to the Committee on Finance, seconded by Representative Evans.

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

"I'd like to stand in opposition to this measure. Basically, what this bill now does is remove the religious exemption for religious facilities for the emergency contraceptive drug after a victim is raped. We've debated this already on the previous readings. I'll leave the rest for Third Reading."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 423 – Relating to Emergency Contraceptives for Sexual Assault Survivors because this amended version deletes the exemption for religiously affiliated medical centers and would jeopardize medical institutions.

"The previous bill took into account the religious beliefs of the hospitals and did not attempt to force unwanted policy upon religiously affiliated medical centers. The previous version would have kept hospitals with religious objections to emergency contraception, out of a potentially precarious situation. Being the Representative for a district that has a hospital which operates with religious stipulations, I understand the importance of this issue and I would have hoped that the respect for religious beliefs would have been acknowledged."

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

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

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

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

"Mr. Speaker, I'd like to register a 'no' vote. Brief comments. The reason why we put in the exemption, the religious exemption, was to allow one specific entity to be able to provide emergency care services. As the Health Chair, we were concerned about access. We've been fighting access, and would hate to lose an emergency room. Various emergency rooms currently now provide triage services for burn victims and different issues, in which patients can be transported to another facility for treatment.

"I'm hoping something can be worked out, as this measure moves forward. But, without the exemption, I am concerned about access to care. Thank you."

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

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

"Thank you, Mr. Speaker. I'd just like to read a small portion of this article that appeared in the American Journal of Public Health. And this section is called, *Ethical Considerations in the Treatment of Rape Victims*.

And the article goes on to note the variability in treatment policies reflects the local control that theism bishops have over medical services. The general principles to be applied in keeping with the church's religious beliefs are stated in the Ethical and Religious Directives for Catholic Health Care Services. Directive 36 provides the following:

A woman who has been raped should be able to defend herself against potential conception from sexual assault. If, after prolific testing, there's no evidence that contraception has occurred already, she may be treated with medications that would provide ovulation in sperm capacitation, or fertilization. It is not permissible, however, to initiate or recommend treatments that have, as their purpose or direct affect, the removal, destruction, or interference with implantation of a fertilized ovum.

"Emergency contraception does not do that. It's a contraception. And the article goes on to, again, quoting from Pope Paul VI:

A conjugal act imposed upon ones partner, without regard for his or her condition and lawful desires, is not a true act of love, and therefore denies exigency of right moral order in relationships between husband and wife.

Simply the proscription of contraception, does not apply in cases of rape. Indeed, Catholic nuns working in the Congo in the early 1960s, were permitted to take contraceptives because of the high chance of rape.

"So, again, we have to look at this ad protecting the victim's right. And it goes on to say, 'A physician who does not inform a rape victim of her options to help avoid pregnancy, violates the obligation to act in her best interest.' And that is why I support this measure. Thank you."

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

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

"Thank you, Mr. Speaker. I would like to cast a strong vote in support of this measure, and Mr. Speaker, I would like make a few comments. I also request that the remarks from the Kauai Representative be entered in the Journal as if they were my own. Thank you.

"Mr. Speaker, all hospitals should provide emergency contraception to rape victims. Just take a look at what could happen with a daughter of one of the men sitting in this Chamber, or a granddaughter of one of the men sitting in this Chamber, or a spouse, or a sister, who's brutally raped, taken to St. Francis, and St. Francis is supposed to give that victim some counseling as to what her rights could be. When you have a victim that's in shock from a brutal rape, and the hospital is supposed to say, after she may have to wait in line to even be treated. They may say, 'But wait a minute. We can tell you, you can get emergency contraception, but you're going to have to be transported to another hospital.' So, does St. Francis then pick up the phone and call a taxi? Put the woman into a cab unattended to go to another hospital? I mean, what are you talking about here? That you're doing to women that are victims of rape. What are you talking about when you vote against this bill? When you say, no, that there should be an out for this hospital ..."

Representative Evans rose, stating:

"Mr. Speaker, a point of information. I think there might be confusion about being in support, because my understanding is the Committee amended it to remove the religious exemption. So, I'm just hoping that we're not being confused."

Representative Thielen responded, stating:

"Mr. Speaker, I know that the Committee removed that exemption. The people that are standing up are casting 'no' votes because the exemption no longer is in there. That's what I'm talking about. What are you doing to this woman? This sister, this wife, this child that has been brutally raped, that is now told, 'Okay, we'll get you alternative transportation. You can go to another facility.'

"I mean, this is just incredibly heartless. It's more than that. What are we doing to the women in our society when we're saying you've got to allow one hospital to opt out of providing this care, that according to the message that was read by the Representative from Kauai, is in keeping with the medical profession's ethics, and also with the Catholic Church's Directive. Thank you."

Representative Pine rose to respond, stating:

"You know, we talk as if a religious woman is never raped. What about their rights? Do you know what would happen to a person that is truly Mormon, truly Catholic? They don't believe in contraception. They believe that that is going against God's will, that that is abortion ..."

Representative M. Lee rose to a point of order, stating:

"Mr. Speaker, point of order. Is the speaker in favor or against the bill in question?"

Vice Speaker Magaoy responded, stating:

"She stood up the first time in opposition. This is your second time speaking so keep it brief. This is being referred to the Finance Committee and you are a member of that Committee. Please proceed."

Representative Pine continued, stating:

"I apologize. I was just taken by all the previous speeches that I forgot to state my position. And I'm in rebuttal. Thank you."

"I'm sure we'll talk about this again on Third Reading, but, what about their rights? Do you know what it's like to be a religious woman, to be raped? To be forced to go to hospitals that force this pill on you? Do you know what it's like to be raped, and you're sitting there and you don't remember, and you want to forget everything? You can't even hear the person talking to you about your options. They say, 'Take this pill, you'll be okay.' And then they find out what that pill is. That is the worst thing you can do.

"So, if we're talking about the feelings of rape victims, let's give them one option to go to one hospital where they know that they will truly be cared for. And I can tell you, the nuns at St. Francis aren't going to put you in a taxi. They're going to care for you, and they're going to love you, and they're going to hold your hand until you get to your next location."

Vice Speaker Magaoy then stated:

"Thank you, Representative Pine. I just want to make a correction for Representative Thielen and Representative Pine. There is no St. Francis Hospital. It is Hawaii Medical East and West."

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

"Mr. Speaker, I rise in support. Just very briefly, I just wanted to rebut. I think all of our healthcare providers truly provide good care. So, I don't think it's fair to characterize one as doing a better job than others. Especially since, really, it's about informed consent. You cannot do anything to a patient without informed consent. That's their entitlement to choice.

"But, I did want to point out something that the Representative from Kailua did make me think about, in that when I look at the Bureau of Justice statistics. Generally, across the nation, only 37 percent of all rapes ever get reported. Thirty-seven percent, so that means one-third. So, when we look at the bill in the purpose section, in 2007, there are 326 forceful rapes in Hawaii alone. If we take that percentage and multiply it just by the national average, we're talking about a thousand rapes that occur in our State.

"The bill further goes on to say that one statewide study found that nearly one in three hospitals failed to offer EC. One in three. So, we're talking about 300 victims, potentially. Of course the numbers and data

could be skewed. But that's 300 victims that are not even given that offer and choice. And that is what is disturbing. Because, if we are going to be making a public policy, if somebody is going to be holding themselves out as a public facility to offer healthcare, then I think they need to do everything they can, and offer people the right to informed choice and selection of their own decisions. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. In opposition with just a short comment. Thank you, Mr. Speaker. I'm still voting 'no,' but I wanted to rebut just a little bit, having to do with how many emergency rooms do we have? How many emergency hospitals do we have. If the statistics are correct, where you're saying only one offers out of the three, then if you don't have those two hospitals, the HMC hospitals, the East and West, then the law with the religious exemption gets you somewhere. Why would you want to, when you can at this point in time, compromise. Get those other emergency hospitals, and include them in this law. And, for those two hospitals, you could be saving, according to this choice for rape victims all across the islands.

"Religion for a lot of people is very important, and when government comes in, what I am saying, is that this particular issue is an example of reaching in and forcing a certain belief, not to just the average rape victim, but what I am talking about is a hospital that has their tenets.

"There are three parts of how the emergency contraception works. One of the parts of the emergency contraception, which you cannot tell, is when an egg is fertilized. And, in the Catholic tenets, I believe that it says that if it is fertilized, that that would be considered an abortion.

"So, let's take a look at respecting some of these religious hospitals, and saying, let's move this legislation with a religious exemption, and for respect of religion, this is an example of how people are reaching in, our government is reaching in, and telling people what to believe in their religion. Thank you, Mr. Speaker."

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

"Mr. Speaker, I am in strong support, and I would like the words from the Representative from Hanalei entered into the Journal as my own," and the Chair "so ordered." (By reference only.)

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

"I am speaking in support of this measure, Mr. Speaker. I just want to rebut some of the things that were said in here about the Hawaii Medical System. I used to work for them, and as to what I know nowadays, there is no such thing anymore as St. Francis Hospital. It no longer exists. It is now Hawaii Medical System, and Hawaii Medical System is a for-profit hospital.

"And this should be the discussion, because St. Francis Hospital no longer plays a part in this hospital. They are just landlords, Mr. Speaker. And they want to play with this, just because they own the land. They lease the land, and they have no say with the current administration or the operation of that hospital.

"In the whole time that I was there, I never saw a nun work there. Not in the emergency room, or any part of the hospital, Mr. Speaker. I just wanted a rebuttal to what was said. Thank you."

Representative Yamane rose to respond, stating:

"Again, same position. Mr. Speaker, if it was that easy, my vote would be changed. However, in my discussions directly with the Catholic Church, to clarify the previous speaker, my understanding is HMC has a lease, which requires them to follow the agreements that the Catholic Church has had on the previous existence of St. Francis. So, Mr. Speaker, what was explained to me was, this new entity, HMC is required to follow the understanding and agreements made by the Catholic Church, in order to provide those needed services that they currently provide.

"Again, we had numerous discussions in the Health Committee, regarding bills to do things like SPRBs, to protect them and support these entities. We need a clarifying issue, as this measure moves on, to look at these entities, like HMC, who are providing very valuable services, not only in the ER, but also dialysis, and other needed services in this community. And if it was just a simple issue of victim access, I would be standing alongside those here to support you. However, we're talking about a healthcare entity that is fully struggling right now, and as we move forward, both looking at patient's rights for this issue, there are a lot of other services that will be negatively impacted if this issue can't be resolved. Thank you."

Representative Ching rose to respond, stating:

"Still in opposition, and wanted to ask that the words of the the Health Chair from Mililani be entered as my own. I am still in opposition, and I appreciate that he clarified it, as the Representative of the District that has HMC in it. Thank you."

Representative Finnegan rose and asked that the remarks of Representative Yamane be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

At this time, the Chair addressed the body, stating:

"Members, on this measure, as we discuss it, you should take a look at what President Bush did before he left office. There was a bill that he signed in the federal law, that basically stopped the process of EC. You should take a look at the last act that he did, I think it was in December. Take a look at that federal law."

Representative M. Lee rose in support of the measure and asked that her written remarks, and the remarks of Representatives Morita and Thielen be inserted in the Journal, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I rise in support. According to law enforcement reports, a woman is raped every six minutes. In addition to the already traumatic experience is another issue which is unavoidable, the potential of unwanted pregnancy. In fact, over thirty-two thousand women become pregnant each year due to sexual assault.

"Although emergency contraception may provide some relief for victims of this heinous crime, only a small percentage of women are aware of its availability and stipulations. Emergency contraception is an effective, safe, FDA-approved method to prevent unintended pregnancies. I repeat—to prevent unintended pregnancies. If the person is pregnant, it does not cause termination. It should be easily accessible in all hospitals as they are the first place victims look to get treatment for sex assault.

"Professional medical standards mandate providing emergency contraception to sexual assault survivors, and the American Medical Association standards of emergency care **REQUIRE** that rape survivors be counseled about the risk of pregnancy and be offered emergency contraception. In fact, a California court ruled that a hospital could be held liable for failing to give sexual assault victim information about and access to emergency contraception.

"The public supports increased availability of emergency contraception, according to a national survey. A January 2000 Peter Hart Research poll of New Jersey and Oregon voters found strong support for access to emergency contraception—62% in New Jersey and 64% in Oregon. In addition, voters overwhelmingly opposed "conscience clauses" that permit pharmacists to refuse to fill prescriptions on "moral grounds"—79% in New Jersey and 69% in Oregon.

"Across the nation more than 400 Catholic non-profit hospitals dispense EC to rape victims. A for-profit corporation seeking a religious exemption would not qualify under the standard set in Hawaii related to contraceptive services, and surely would not be exempt if seeking public funds. An

exemption such as the one offered in the previous version of this bill fails to satisfy two key tests.

(1) Does a refusal to provide EC place burdens on people who do not share the beliefs that motivate the refusal? The more burdens fall on such people, the less acceptable is any claimed right to refuse.

(2) Is the objector a sectarian institution engaged in religious practices, or is it instead an entity—religiously affiliated or not—operating in a public, secular setting? The more public and secular the setting, the less acceptable an institution's claimed right to refuse.

"In closing, the removal of the religious exemption from this bill was a good thing. It is not needed and would most probably be the subject of a law suit should the measure become law."

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

Representative Morita's written remarks are as follows:

"Mr. Speaker: Again, I stand in support of this measure in its present form and thank the Judiciary Chair for removing the offending provisions in the House Draft 1. Simply put, and according to this article which appeared in the American Journal of Public Health, and which I would like to submit for insertion into the House Journal, some Catholic hospitals have policies that prohibit the discussion of emergency contraceptives with rape victims or these victims learn about the treatment only by asking. Such policies and practices are contrary to Catholic teaching, but more importantly, undermine a victim's right to information. And, as I mentioned earlier, a physician who does not inform a rape victim of her options to help avoid pregnancy violates the obligation to act in her best interest and violates her right to give an informed consent to treatment.

"Additionally, Mr. Speaker, there are two issues that the opponents of this measure fail to understand. First, emergency contraceptive is not an abortifacient. The scientific definition of pregnancy is that pregnancy begins when an embryo implants into the uterus. An abortifacient (like RU-486) changes the uterine lining and expels the implanted embryo. Emergency contraception, however, prevents pregnancy by preventing ovulation, fertilization, or implantation of a fertilized egg in the uterine lining. Secondly, the hospital in question is a secular institution -- that is they serve the general public and do not provide healthcare to or hire solely people of the Catholic faith. There is a standard of care that this healthcare facility should not be allowed to deviate from just because the local diocesan bishop reflects a certain policy. Again, it should be noted that this local policy is inconsistent with the general principles of the Church's religious beliefs (Directive 36) that are stated in the Ethical and Religious Directives for Catholic Health Care Services.

"Thank you for allowing me to make additional comments in support of this measure."

Commentaries

Informed Consent for Emergency Contraception: Variability in Hospital Care of Rape Victims

Steven S. Smugar, MD, Bernadette J. Spina, BA, and Jon F. Merz, JD, PhD

ABSTRACT

There is growing concern that rape victims are not provided with emergency contraceptives in many hospital emergency rooms, particularly in Catholic hospitals.

In a small pilot study, we examined policies and practices relating to providing information, prescriptions, and pregnancy prophylaxis in emergency rooms. We held structured telephone interviews with emergency department personnel in 58 large urban hospitals, including 28 Catholic hospitals, from across the United States.

Our results showed that some Catholic hospitals have policies that prohibit the discussion of emergency contraceptives with rape victims, and in some of these hospitals, a victim would learn about the treatment only by asking. Such policies and practices are contrary to Catholic teaching. More seriously, they undermine a victim's right to information about her treatment options and jeopardize physicians' fiduciary responsibility to act in their patients' best interests.

We suggest that institutions must reevaluate their restrictive policies. If they fail to do so, we believe that state legislation requiring hospitals to meet the standard of care for treatment of rape victims is appropriate. (*Am J Public Health*. 2000;90:1372–1376)

Emergency contraception is a Food and Drug Administration–approved method for postcoital pregnancy prophylaxis,¹ the use of which is recommended by the American College of Obstetricians and Gynecologists.² Emergency contraceptives are the standard of care for rape victims.³ Nevertheless, a growing number of surveys have shown that Catholic hospitals throughout the United States are likely to have policies prohibiting emergency room physicians from prescribing emergency contraceptives, even to rape victims.^{4–7} Such policies may place a serious burden on rape victims, who are likely to be particularly vulnerable because of postrape trauma and stress. The victim has less than 72 hours to act to protect herself from pregnancy, and she may have delayed seeking care.

Because many women do not know about the treatment,^{8,9} we decided to examine whether rape victims are likely to be adequately informed by providers who believe such treatment is immoral.^{10,11} In some views, providing information or a referral can make a provider morally culpable for the subsequent acts of the rape victim. This view is supported by abortion-related conscience clause laws enacted by some states. In the broadest, most “permissive” conscience clauses, providers are protected from liability not only for refusing to perform or participate in abortion but also for refusing to discuss abortion and to counsel or refer patients for such a procedure.¹²

To examine whether rape victims are given information about emergency contraceptives, we performed a pilot survey of large hospitals across the United States. In this commentary, we present our results and discuss the moral and ethical implications of our findings.

Pilot Survey

We designed and piloted a telephone questionnaire that addressed (1) whether providers are prevented from discussing or prescribing

emergency contraception and whether hospital policies are followed; (2) whether the hospital pharmacy dispenses emergency contraception; (3) if necessary, whether referrals are made; and (4) hospital volume of rape cases. This survey was approved by the University of Pennsylvania institutional review board.

To examine whether conscience clause laws have any bearing on these practices, we chose a set of the largest Catholic¹³ and non-Catholic American Hospital Association–member hospitals in large cities in states with “permissive” conscience clause laws and those with either no law or a “standard” law. We identified 8 states (Illinois, Louisiana, Maryland, Missouri, Montana, Oregon, Pennsylvania, South Carolina) in which the law specifically exonerates providers and institutions for refusal to “suggest,”¹⁴ “counsel,”^{14,15} “recommend,”^{14–16} “advise,”^{17–19} “refer for,”^{14,20} or “aid, abet, or facilitate” abortion.²¹ Although these laws do not necessarily apply to emergency contraception,²² we hypothesized that the laws may be a proxy for conservative social environments in which withholding information would be more acceptable. Indeed, permissive conscience clause laws are more likely to have been adopted in what Halva-Neubauer called “chal-

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Note. The opinions expressed are those of the authors and do not represent the positions of the Presbyterian Medical Center or the University of Pennsylvania.

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TABLE 1—Description of Survey Sample and Respondents

	Catholic Hospitals	Non-Catholic Hospitals	Total
Survey sample			
Permissive conscience clause law	19	18	37
No or "standard" conscience clause law	21	20	41
Total survey sample	40	38	78
Respondents			
Permissive conscience clause law	13	13	26
No or "standard" conscience clause law	15	17	32
Total responses	28	30	58
Role			
Nurse/nurse coordinator	26	25	51
Physician	1	3	4
Clinical educator/rape counselor	1	1	2
Nonresponse			1
Average no. of beds	468	663*	
Estimated average no. of rape cases/y	66	108 ^{a,**}	

^aLinear regression showed no relation between the number of beds in the institution and the number of victims treated ($F_{1,49} = 0.00$, $P = .95$).

*Mann-Whitney test ($z = 3.1$, $P = .002$).

**Mann-Whitney test ($z = 2.0$, $P = .046$).

lenger" states (i.e., those that have enacted more abortion laws restricting the rights created by *Roe v Wade*).²³

Our control group was drawn from the District of Columbia and 10 states contiguous to the permissive law states. Two of these jurisdictions have no conscience clause law (District of Columbia and Mississippi), and 9 have laws that protect providers who refuse to "perform or participate" in medical procedures that result in abortion (Arkansas, Delaware, Idaho, Indiana, Iowa, New Jersey, North Carolina, Ohio, Washington).²⁴⁻³²

All telephone interviews were performed by one of us (B.J.S.) between June and August 1998. The interviewer was blinded to conscience clause law. We called each hospital, were transferred to the emergency department, and held an interview with a person who indicated that he or she knew how rape victims were treated in the emergency department. On average, 2 telephone calls to each hospital were made before completing an interview. Respondents were assured that their identity and that of the institution would be kept confidential. Interviews took approximately 5 minutes.

As shown in Table 1, our final sample included 78 hospitals. Staff at 9 hospitals refused, stated that they were too busy, or told us that an appropriate person was unavailable. Staff at 11 hospitals stated either that they stabilize and transfer or that they do not handle rape cases (e.g., long-term care facility, mental health hospital, or no emergency room). These respondents indicated that emergency medical personnel would not bring rape victims to the hospital except in exigent circumstances. We thus have usable data from 58 interviews (74%).

The results of our survey are presented in Table 2. Staff at 12 of 27 Catholic hospitals reported that their policy prohibits the discussion of emergency contraception with rape victims. Despite these policies, respondents at 8 of the 12 hospitals with restrictive policies indicated that relevant information likely would be provided to victims. In 4 hospitals, providers would discuss contraceptives despite the policy; in 2 hospitals, the victim would be transferred to the gynecology department or to another provider where information would be provided; and in 2 hospitals, rape counselors who come to the emergency room would provide relevant information. Three of these 8 hospitals also tell victims that they have a policy prohibiting discussion of emergency contra-

ception. In the remaining 4 hospitals, a victim would find out about emergency contraception only by asking. One of these 4 provides a pamphlet stating that there may be other services that the hospital does not provide because it is Catholic, but emergency contraception is not specifically mentioned. In all respondent hospitals, providers would discuss emergency contraception if specifically asked.

Regarding the effect of conscience clause laws, 5 of 25 (20%) were in states with permissive conscience clause laws, and 7 of 32 (22%) were in control states; this finding was contrary to the hypothesis that policies restricting the provision of information would be more prevalent in hospitals in permissive law states (2-sided Fisher exact test, $P = 1.0$). Given our limited sample size and the 20% average prevalence of restrictive disclosure policies in our sample, we had limited power of less than 60% to detect a difference of about 10%, a medium-size effect, if it exists.³³ Our results nonetheless provide important base rate data that may be useful for future nationwide sampling and study.

Respondents at 7 of the Catholic hospitals in our sample stated that physicians were prohibited from prescribing contraceptives. Five of these 7 also had policies prohibiting discussion. Four respondents indicated that victims would be referred elsewhere, such as to their own physicians, for a prescription. Four respondents noted that victims would be told about their policy prohibiting prescription, and 3 of these 4 also would make a referral. One respondent stated that physicians in that hospital could write prescriptions on their own private prescription pads but not on those bearing the hospital's name. For individual physicians who are uncomfortable prescribing contraceptives, that hospital also had prescriptions presigned by

TABLE 2—Summary of Results

	Catholic Hospitals	Non-Catholic Hospitals
Does hospital policy prohibit discussion of emergency contraception with rape victims?		
Yes	12	0*
No	15	30
Nonresponse	1	0
Does hospital policy prohibit prescription of emergency contraception for rape victims?		
Yes	7	0
No	20	30**
Nonresponse	1	0
Will hospital pharmacy dispense emergency contraception?		
Yes	10	30
No	17	0*
Nonresponse	1	0

*Fisher exact test, $P < .001$.

**Fisher exact test, $P = .03$.

another physician. One respondent stated that physicians might prescribe despite the policy.

Respondents at 17 Catholic hospitals stated that their pharmacies are prohibited from dispensing emergency contraceptives. In one hospital, the inpatient pharmacy could not dispense contraceptives, but the outpatient pharmacy located down the hall would. In another, the pharmacy would dispense contraceptives only to rape victims.

Although many of the Catholic hospitals in our study have no emergency contraceptive restrictions, respondents were quite candid about the controversy over emergency contraceptives. Two individuals commented that the treatment is a “big deal” or a “big issue” and that even though it is provided, the hospitals “don’t like it.” Two others indicated that physicians may discuss emergency contraceptives but that the use of such contraceptives “is not promoted.” One respondent hinted that prescriptions are written, but this respondent “officially abstained” from answering our question. Another respondent from a Catholic hospital that recently merged with a non-Catholic one stated that “contraceptive issues are currently uncharted waters, and for the time being, contraceptive discussion is allowed but not encouraged.”

According to our respondents, hospital policies were followed much of the time, but there are various ways of providing treatment for victims while upholding the policies. Clearly, some Catholic hospitals (and their staff) are willing to compromise on the issue of emergency contraceptives, generating “creative solutions” to meet the standard of care.³⁴

Ethical Considerations in the Treatment of Rape Victims

This pilot study confirmed that the nationwide standard of care for treatment of rape victims in large urban hospital emergency rooms includes emergency contraception. Nonetheless, we found that some Catholic hospitals prohibit the discussion, prescription, and distribution of emergency contraception in the care of rape victims.

The variability in treatment policies reflects the local control that diocesan bishops have over medical services.^{35–37} The general principles to be applied in keeping with the Church’s religious beliefs are stated in the *Ethical and Religious Directives for Catholic Health Care Services*.³⁸ Directive 36 provides the following:

A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent

ovulation, sperm capacitation, or fertilization. It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum.³⁹

In Catholic moral theology, contraception is viewed as an illicit interference with the procreative purpose of the conjugal act of a married couple. However, as stated by Pope Paul VI, “a conjugal act imposed upon one’s partner without regard for his or her condition and lawful desires is not a true act of love, and therefore denies an exigency of right moral order in the relationships between husband and wife.”³⁹ Simply, the proscription on contraception does not apply in cases of rape. Indeed, Catholic nuns working in the Congo in the early 1960s were permitted to take contraceptives because of the high chance of rape.⁴⁰

Emergency contraception generally refers to high-dose estrogen or estrogen–progestin combination pills, or a progestin mini-pill, which inhibits or disrupts ovulation, interferes with fertilization or the transport of the embryo to the uterus, and possibly inhibits embryo implantation in the endometrium.⁴¹ The mechanism by which emergency contraception prevents pregnancy thus encompasses both permissible and nonpermissible actions. However, the directive only enjoins acts performed with the specific intent of “removal, destruction, or interference with the implantation” of an embryo regardless of whether they in fact do so. Testing a rape victim to determine whether conception has occurred as a result of the rape is not feasible, and the most that can be accomplished is an extremely rough judgment of probabilities.⁴² Thus, a provider cannot tell whether giving the victim an emergency contraceptive will prevent ovulation and conception or may instead interfere with implantation of a fertilized ovum. Under the principle of double effect, as long as the provider has the intent of preventing ovulation or conception, prescribing or giving a victim an emergency contraceptive is permissible even with the foreknowledge that it might instead cause rejection of a fertilized ovum.⁴³

Some Catholic organizations have adopted more dogmatic positions. The Pennsylvania Catholic Conference, for example, stated that although conception may be avoided, use of any “medical procedure, the purpose and/or effect of which is abortive, is never permissible.”⁴⁴ By sidestepping the intentionality of an act, the true effect of which act can never be assessed with certainty, they reject both the gross uncertainty surrounding the processes of fertilization and implantation and the principle of double effect.

Restrictive policies leave providers sailing between Scylla and Charybdis: if they pro-

vide emergency contraception, they may contribute to an act that they view to be immoral, but if they fail to inform about or offer emergency contraception, they may contribute to the (perhaps morally more repugnant) later-term abortion resulting from an avoidable pregnancy. Indeed, pregnancy occurs in up to 5% of rapes, and victims often abort.⁴⁵

A physician who does not inform a rape victim of her options to help avoid pregnancy violates the obligation to act in her best interest and violates her right to give an informed consent to treatment.^{46,47} Providers may justify the failure to disclose by asserting that there is not 1 patient but 2—the rape victim and an embryo. This is precisely the point over which rape victims and providers may disagree. This disagreement can be discovered and resolved only through open discussion about the provider’s conflicting personal morals or institutional policies that prevent the discussion or prescription of emergency contraceptives.^{48–50}

In our view, the failure to discuss emergency contraception is tantamount to abandonment.^{51–53} If a physician “discontinues his services before the need for them is at an end, he is bound first to give due notice to the patient and afford the latter ample opportunity to secure other medical attendance of his own choice.”⁵⁴ Clearly, the uninformed rape victim may think she has received all possible and appropriate medical care.

This analysis suggests that hospitals with restrictive practices or policies regarding discussion or prescription of, or referral for, emergency contraceptives should reevaluate the theological, medical, and social justifications for those policies. One of our respondents summarized the dilemma and her hospital’s solution: “Being able to give the pill is a big deal, but it is given to rape victims as a standard part of care.” If hospitals continue to fail to meet the standard of care for treatment of rape victims, we believe that state legislation is called for that will require providers to meet the standard.⁵⁵ Simply requiring a referral is inadequate, because the effectiveness of the treatment decreases with time lapsed from coitus.^{56,57}

We examined hospitals in larger metropolitan areas. Our results thus may not be applicable to rural or even suburban hospitals and need to be confirmed in larger studies. Because victims’ options may be quite limited in areas with few providers or hospitals, restrictive policies (or laws that permit pharmacists to refuse to fill contraceptive prescriptions) could have particularly harsh effects. This may be exacerbated by the expansion of the Catholic health system, particularly because of the growth in the number of Catholic sole providers (where the closest similar facility is more than 35 road miles away), and because mergers often lead to

restriction of reproductive services.^{4,34,58} These issues need to be examined in greater detail.

Conclusion

The use of emergency contraceptives at Catholic hospitals is clearly a divisive issue. This study confirms that no consensus exists across Catholic hospitals regarding compliance with the medical standard of care or, for that matter, with the Church's own health directives. These hospitals should reevaluate their policies and practices in light of the directives, which we believe adopt a compassionate and reasoned approach, within the Catholic moral framework, to the treatment of rape victims.

What seems to be missing is a clear moral analysis of culpability and duty that would help Catholic and other health care providers resolve the dilemmas posed by a conflict of their own beliefs and values with the beliefs, values, and, perhaps most important, treatment needs of their patients, including rape victims. The permissive conscience clause laws enacted by several states appear to resolve this conflict purely in favor of the provider. These laws are unreasonable because they create unique, dangerous, and insidious exceptions both to the quasi-fiduciary role of physicians and to the obligation of providers to secure informed consent to medical care and, most significantly, because they are inconsistent with patients' reasonable expectations that their physicians will act in their best interest. A better resolution would be to strike a balance between the interests of providers in their moral integrity and their fidelity to patients' well-being and trust: to require not performance or participation in acts the provider believes to be immoral, but communication and discussion fully respectful of patients' status as independent moral agents. □

Contributors

S.S. Smugar and J.F. Merz together initiated the study, developed the survey sample, and drafted the survey instrument. S.S. Smugar checked the data and wrote the first draft of the paper. J.F. Merz performed the statistical analyses and assisted with the writing of the paper. B.J. Spina piloted the questionnaire, helped modify the instrument after piloting, ran the survey, performed data entry and cleaning, and assisted with the writing of the paper.

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

Representative Marumoto's written remarks are as follows:

"One of the reasons I am in favor of offering emergency contraception to a victim after a rape without exception is that "time is of the essence." The sooner EC is administered to a victim, the less likely pregnancy will occur. Time is important because if a victim is transported to another medical facility, she increases the likelihood of pregnancy.

"This is important when the victim is very young and too immature to handle pregnancy – or too old. There are those who do not want to get pregnant – especially by a rapist. Though a victim and her partner may not realize it before a rape occurs, in some cases the partner will reject the victim after she has been violated. The relationship may be permanently impaired, and this reaction cannot be predicted before the incident.

"Timely EC is also important because the issue of a rape may not be well-received. Though a victim may bear a child as a result of a rape, the child may not be well-received as another from the family. The child could be a constant reminder, to all members of the family, of its violent beginnings. Again, this adverse reaction cannot be predicted.

"EC is voluntary and will not be forced upon a victim, but will allow a victim to decide whether to prevent pregnancy or not."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 423, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY CONTRACEPTIVES FOR SEXUAL ASSAULT SURVIVORS," was referred to the Committee on Finance with Representatives Aquino, Ching, Finnegan, Manahan, Pine and Yamane voting no, and with Representatives Takai, Takumi and Ward being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 473) recommending that H.B. No. 36, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 36, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 474) recommending that H.B. No. 1682, HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1682, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 475) recommending that H.B. No. 425, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 425, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING, LLC PROJECTS ON OAHU," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 476) recommending that H.B. No. 427, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST ONE PLANET PACIFIC ENERGY, LLC, A PROCESSING ENTERPRISE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Morita, for the Committee on Energy & Environmental Protection presented a report (Stand. Com. Rep. No. 477) recommending that H.B. No. 1491, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1491, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL FACILITY TAX CREDIT," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representatives Morita and Tsuji, for the Committee on Energy & Environmental Protection and the Committee on Agriculture presented a report (Stand. Com. Rep. No. 478) recommending that H.B. No. 591, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 591, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce with Representatives Takai, Takumi and Ward being excused.

Representative Carroll, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 479) recommending that H.B. No. 900, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 900, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 480) recommending that H.B. No. 447, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 447, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAYDAY LENDING," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 481) recommending that H.B. No. 82, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 82, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 482) recommending that H.B. No. 473, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 473, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KAUAI VETERANS CEMETERY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 483) recommending that H.B. No. 556, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 556, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

Representative McKelvey rose in support of the measure, stating:

"Mr. Speaker, I stand in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 556, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERAN BURIAL GRANTS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 484) recommending that H.B. No. 638, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 638, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 485) recommending that H.B. No. 617, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT ROUTE ECONOMIC ZONES," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative McKelvey, for the Committee on Economic Revitalization, Business, & Military Affairs presented a report (Stand. Com. Rep. No. 486) recommending that H.B. No. 829, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 829, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARMED SERVICES," was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 487) recommending that H.B. No. 408, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 408, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 488) recommending that H.B. No. 686, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 686, entitled: "A BILL FOR AN ACT RELATING TO REDUCED IGNITION PROPENSITY CIGARETTES," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 489) recommending that H.B. No. 954, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 954, entitled: "A BILL FOR AN ACT RELATING TO A MAJOR DISASTER RESERVE TRUST FUND," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

Representative Hanohano, for the Committee on Public Safety presented a report (Stand. Com. Rep. No. 490) recommending that H.B. No. 1214, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1214, entitled: "A BILL FOR AN ACT RELATING TO HOMELAND SECURITY," passed Second Reading and was referred to the Committee on Finance with Representatives Takai, Takumi and Ward being excused.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 57 through 61) and concurrent resolutions (H.C.R. Nos. 71 through 75) were referred to Printing and further action was deferred:

H.R. No. 57, entitled: "HOUSE RESOLUTION REQUESTING THAT THE UNIVERSITY OF HAWAII BOARD OF REGENTS LIFT THE CEILINGS ON NONRESIDENT ENROLLMENT OR, IN THE ALTERNATIVE, CREATE SEPARATE NONRESIDENT ENROLLMENT CEILINGS FOR MAINLAND AND FOREIGN STUDENTS," was jointly offered by Representatives Ward, Pine, Brower and Ching.

H.R. No. 58, entitled: "HOUSE RESOLUTION REQUESTING HAWAII AMERICAN WATER COMPANY TO IMPLEMENT AN ODOR MITIGATION PLAN FOR ITS FACILITY IN HAWAII KAI," was jointly offered by Representatives Ward, Ching, Hanohano, Marumoto and Pine.

H.R. No. 59, entitled: "HOUSE RESOLUTION REQUESTING THE CITY AND COUNTY OF HONOLULU TO REQUIRE DEVELOPERS TO APPEAR BEFORE THE APPROPRIATE NEIGHBORHOOD BOARDS FOLLOWING CHANGES IN CONSTRUCTION OR DEVELOPMENT PLANS PREVIOUSLY APPROVED BY THE NEIGHBORHOOD BOARD," was jointly offered by Representatives Ward, Brower, Pine, Aquino, Ching, Hanohano, Marumoto and Nakashima.

H.R. No. 60, entitled: "HOUSE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU IN CONSULTATION WITH THE STATE BOARD OF MASSAGE THERAPY TO STUDY MASSAGE THERAPY LICENSURE STANDARDS AND PROCEDURES OF OTHER STATES AND WHETHER HAWAII'S LAWS PREVENT QUALIFIED MASSAGE THERAPISTS EDUCATED AND TRAINED IN ANOTHER STATE FROM PRACTICING IN HAWAII," was jointly offered by Representatives Carroll, Brower, Hanohano, Mizuno, Shimabukuro, Bertram, Chong, Evans, Finnegan, C. Lee, Magaoay, Sagum and Ward.

H.R. No. 61, entitled: "HOUSE RESOLUTION REQUESTING THE UNITED STATES POSTAL SERVICE TO ISSUE A STAMP HONORING PRINCE JONAH KUHIO KALANIANAOLE," was jointly offered by Representatives Carroll, Belatti, Brower, Finnegan, Hanohano, Magaoay, Mizuno, Sagum, Shimabukuro, Ward, Bertram, Chong, Evans and C. Lee.

H.C.R. No. 71, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE UNIVERSITY OF HAWAII BOARD OF REGENTS LIFT THE CEILINGS ON NONRESIDENT ENROLLMENT OR, IN THE ALTERNATIVE, CREATE SEPARATE NONRESIDENT ENROLLMENT CEILINGS FOR MAINLAND AND FOREIGN STUDENTS," was jointly offered by Representatives Ward, Pine, Brower, Ching and C. Lee.

H.C.R. No. 72, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII BOARD OF REGENTS TO CREATE SCHOLARSHIPS FOR HAWAII RESIDENTS TO STUDY ABROAD," was jointly offered by Representatives Ward, Brower, Pine, Aquino, Ching, Hanohano and Nakashima.

H.C.R. No. 73, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE HAWAIIAN ELECTRIC COMPANY TO EXTEND ITS ENERGY SOLUTIONS FOR THE HOME PROGRAM," was jointly offered by Representatives Ward, Brower, Pine, Ching, Hanohano, Marumoto and Nakashima.

H.C.R. No. 74, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU IN CONSULTATION WITH THE STATE BOARD OF MASSAGE THERAPY TO STUDY MASSAGE THERAPY LICENSURE STANDARDS AND PROCEDURES OF OTHER STATES AND WHETHER HAWAII'S LAWS PREVENT QUALIFIED MASSAGE THERAPISTS EDUCATED AND TRAINED IN ANOTHER STATE FROM PRACTICING IN HAWAII," was jointly offered by Representatives Carroll, Brower, Hanohano, Mizuno, Shimabukuro, Bertram, Chong, Evans, Finnegan, C. Lee, Magaoay, Sagum and Ward.

H.C.R. No. 75, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES POSTAL SERVICE TO ISSUE A STAMP HONORING PRINCE JONAH KUHIO KALANIANAOLE," was jointly offered by Representatives Carroll, Belatti, Brower, Finnegan, Hanohano, Magaoay, Mizuno, Sagum, Shimabukuro, Ward, Bertram, Chong, Evans and C. Lee.

ANNOUNCEMENTS

Representative Ching: "I'd like to make the announcement that there is, across the street, at the Judiciary Building, the announcement by Senator Daniel Inouye of the first National Heritage Area in the State of Hawaii. That's happening across the street, right now."

Representative Marumoto: "Mr. Speaker, just an observation that 67 years ago today, President Roosevelt signed Executive Order 9066, which locked up 120,000 civilians, mostly Japanese and Japanese-Americans. So, we should be vigilant that this does not happen again. Thank you."

ADJOURNMENT

At 1:04 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 20, 2009. (Representatives Takai, Takumi and Ward were excused.)