

TWENTY-FIFTH DAY

Tuesday, March 4, 2014

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2014, convened at 9:11 o'clock a.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Ms. Holly Broman of Representative Chris Lee's office, after which the Roll was called showing all Members present with the exception of Representative Ing, who was excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Twenty-Fourth Day was deferred.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 236 and 237) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 236, dated February 23, 2014, transmitting the 2012-2013 Annual Report of the Department of Taxation, pursuant to Section 231-3(8), HRS.

Gov. Msg. No. 237, dated February 23, 2014, transmitting the Goals and Objectives report, prepared by the Department of Taxation pursuant to Act 100, SLH 1999.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 54 through 69) were received and announced by the Clerk:

Sen. Com. No. 54, transmitting S.B. No. 894, SD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 55, transmitting S.B. No. 2033, entitled: "A BILL FOR AN ACT RELATING TO DENTISTS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 56, transmitting S.B. No. 2076, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED CONTRACTOR FRAUD," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 57, transmitting S.B. No. 2078, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 58, transmitting S.B. No. 2080, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM MEDIATION ACT," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 59, transmitting S.B. No. 2223, entitled: "A BILL FOR AN ACT RELATING TO CHANGE OF NAME," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 60, transmitting S.B. No. 2233, entitled: "A BILL FOR AN ACT RELATING TO BUREAU OF CONVEYANCES," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 61, transmitting S.B. No. 2287, entitled: "A BILL FOR AN ACT RELATING TO POST-SECONDARY EDUCATION," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 62, transmitting S.B. No. 2301, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 63, transmitting S.B. No. 2302, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 64, transmitting S.B. No. 2475, entitled: "A BILL FOR AN ACT RELATING TO ASSISTING UNLICENSED CONTRACTORS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 65, transmitting S.B. No. 2482, entitled: "A BILL FOR AN ACT RELATING TO ASSOCIATION ALTERNATIVE POWER OF SALE FORECLOSURE PROCESS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 66, transmitting S.B. No. 2492, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 67, transmitting S.B. No. 2801, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATION OF GAS TANKLESS WATER HEATERS," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 68, transmitting S.B. No. 3046, entitled: "A BILL FOR AN ACT RELATING TO GOLD STAR FAMILY DAY," which passed Third Reading in the Senate on February 28, 2014.

Sen. Com. No. 69, transmitting S.B. No. 3074, entitled: "A BILL FOR AN ACT RELATING TO HOTEL CLASS LIQUOR LICENSES," which passed Third Reading in the Senate on February 28, 2014.

On motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the following Senate Bills passed First Reading by title and further action was deferred: (Representatives Ing and Nishimoto were excused.)

S.B. No. 894, SD 2
S.B. No. 2033
S.B. No. 2076
S.B. No. 2078, SD 1
S.B. No. 2080
S.B. No. 2223
S.B. No. 2233
S.B. No. 2287
S.B. No. 2301
S.B. No. 2302
S.B. No. 2475
S.B. No. 2482
S.B. No. 2492, SD 1
S.B. No. 2801
S.B. No. 3046
S.B. No. 3074

DEPARTMENTAL COMMUNICATIONS

The following departmental communication (Dept. Com. No. 77) was received by the Clerk and was placed on file:

Dept. Com. No. 77, dated February 13, 2014, transmitting the 2013 State Public Charter School Commission Annual Report, prepared by the Department of Education pursuant to Act 134, Section 126, SLH 2013.

INTRODUCTIONS

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

Representative Luke introduced Finance Committee staff: Research staff, Randall Hiyoto, Stacey Tagala, Kay Yasufuku, Riley Fujisaki,

Dominique Swann and Sheryll Yotsuda; front office staff, Jo Hamasaki, Danyl Pang, Melody Lee, Julie Yang, Jennifer Byun and William Chum.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the rules were suspended for the purpose of considering certain House and Senate Bills for Third Reading by consent calendar. (Representative Ing was excused.)

CONSENT CALENDAR

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, there will be no discussion on these measures as these items were agreed upon by this Body for placement on the Consent Calendar."

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 769-14) recommending that H.B. No. 1570, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1570, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 774-14) recommending that H.B. No. 1669, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1669, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 777-14) recommending that H.B. No. 2262, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2262, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REPORTING DEATHS TO STATE AGENCIES," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 781-14) recommending that H.B. No. 1664, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1664, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION FOR FIREWORKS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 782-14) recommending that H.B. No. 2304, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2304, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE

NEUROTRAUMA ADVISORY BOARD," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 789-14) recommending that H.B. No. 737, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 737, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST AGRICULTURAL ENTERPRISES," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 796-14) recommending that H.B. No. 1754, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1754, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I am in support of HB 1754, HD 2 which establishes and appropriates funds for the Medicaid Buy-in Program for Workers with Disabilities.

"This bill will encourage individuals to gain employment, as well as improve the employment opportunities currently available for disabled persons, by establishing a Medicaid Buy-in Program for Workers with Disabilities. According to the Department of Health, employment is a key determinant of self-determination and quality of life for persons with developmental disabilities. By leaving our disabled population in the predicament they are currently in, we are doing them a disservice. That's why HB 1754 is so important, because it seeks to correct the aspect of Medicaid that discourages disabled persons from seeking meaningful employment.

"It is advantageous for economic development in the state and in the best interests of Hawaii's citizens with disabilities to establish programs and policies that encourage employment. It is also the intent of the Legislature that all state agencies work with citizens to identify and remove barriers to employment for persons with disabilities. This measure not only removes barriers, but seeks to improve the condition of the state's disabled population overall. Allowing disabled persons to attain meaningful employment, without the fear of losing the benefits afforded by Medicaid that they so desperately need, takes a lot of stress, financial and otherwise, off of persons with disabilities. It helps them attain a positive self-image and realize the true value they present to our communities because they will no longer be restricted from seeking or holding a meaningful, more fulfilling occupation.

"When we uplift those in the community that are disabled, we make a positive impact that uplifts the entire community. With this measure, we also send the message that our society will not let disability prevent individuals from reaching their full potential.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote yes on HB 1754, HD 2. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1754, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PERSONS WITH DISABILITIES," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 798-14) recommending that H.B. No. 1976, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1976, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 799-14) recommending that H.B. No. 1958, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1958, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMPENSATION," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 801-14) recommending that H.B. No. 1667, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1667, HD 3 pass Third Reading, seconded by Representative Cabanilla.

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

"HB 1667, HD 3 – *Ka Pilina Ana No Nā Koa Kahiko*.

"Ho'omalū 'Ōlelo. Ke ku nei au i ke kako'o no kēia pila. 'O Hawai'i ka home no nā koa kahiko wahine hanohano a me nā koa kahiko kane hanohano a me nā āina apau. Ua hele nā koa kahiko e hana kāua a ho'ā'o me ka hopohopo kō lākou ola ana no kēia āina. I nā manawa apau loa, e ho'ihō'i lākou i kō lākou home me nā 'eha ai'ole 'ano maika'i.

"O ka mōhai no nā koa kahiko 'ālina e hana no nā kū'oko'a a me iā pōpilikia e nānā pono i ka 'oia'i'o e i'ini ku'u pu'uwai. 'O wau ka mea i ho'opōmaika'i 'ia no kēia mōhai lokomaika'i. E ho'opa'a au no kēia mana'o e pili ana ka ho'ihō'i ana no kēia mau koa kahiko 'a'ohe lawa ke kala no kō lākou ola ana. Aka, nui loa ka hana e ho'opopono kēia mau pilikia, like me ka pila HB 1667, HD 3 a me nā pila like me ko'u ho'ohui 'elua makahiki i hala.

"Maopopo au nā mana'o no ka po'e e kako'o'ole kēia pila no ka mea no ke kala nalowale no nā alanui o ke 'aupuni aka e hilina'i au e ho'oku'u kēia ano no kekahi nā koa kahiko 'oia no e ha'awi ana kekahi li'ili'i no ka po'e e ha'awi nui loa no kēia āina.

"Ma kēia kumu e kū nei au me ke kako'o ma kēia pila. HB 1667, HD 3. Mahalo, Ho'omalū 'ōlelo.

"Mr. Speaker, I rise in support on this measure. Hawaii is home to many servicemen and women who honorably serve Hawaii and the nation at large. Many of our servicemen and women have gone to war and have risked their lives for this country. Oftentimes, they return home with significant injuries or trauma.

"The sacrifice that disabled veterans have made for our freedoms and the hardships that they must face on a daily basis is a cause near and dear to my heart. As a beneficiary of this benevolent sacrifice, I firmly believe that the debt that is owed to these veterans can never be fully repaid. But there are small steps that can be taken to ameliorate some of their daily hardships, and bills like HB 1667, HD 3 and similar bills that I have introduced over the past two years embody this sentiment of gratitude.

"I understand the concerns of some of the testifiers that oppose this legislation because of lost revenues for our state highways, but I believe that by granting this exemption to certain totally disabled veterans, we are giving back a little to those who have given a lot.

"For these reasons, I stand in support of HB 1667, HD 3. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1667, HD 3, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 802-14) recommending that H.B. No. 1771, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1771, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"HB 1771 HD 2 – *Ka Pilina Ana No Ka Mokulele Kīwila*.

"Ho'omalū 'Ōlelo. Ke kū nei au ma kēia pila. 'O ka Mokulele Kīwila 'oia no ka hui 'a'a e ho'olako ke kokua no nā mokupuni 'āhiu no ka hana pōpilikia kūpono. 'O ka hana no kēia hui e nānā nā mea 'ino'ino o nā hale mahope 'o ka 'ino'ino, e nānā ke kahakai a e kokua ka 'imi hana me ka la'au.

"'O ke kala e ha'awi no kēia pila e uku ka hana no ka po'e 'o Hawai'i nei. I ka 'ike ana no ka uhane a'a no kēia pailaka mōhai a me ke kala no kēia hana maika'i.

"No kēia mau kumu, Ho'omalū 'ōlelo, ke kū nei au ke kako'o no kēia pila HB 1771, HD 2.

"Mr. Speaker, I rise in strong support on this measure. The Civil Air Patrol is a volunteer organization that provides a great deal of assistance to our remote islands in the event of natural disasters. The aerial reconnaissance that these volunteer pilots provide can include inspecting damage to critical infrastructure after a natural disaster, reconnoitering our shoreline during a tsunami watch, assisting search and rescue operations, and assisting in drug interdiction operations.

"The appropriation included in this bill will pay dividends to the people of Hawaii. In recognition of the spirit of volunteerism and the sacrifice made by these intrepid pilots, funding the basic infrastructure requirements for these pilots makes perfect sense.

"For these reasons, Mr. Speaker, I rise in support of HB 1771, HD 2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1771, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIVIL AIR PATROL," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 805-14) recommending that H.B. No. 2426, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2426, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOSECURITY," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 807-14) recommending that H.B. No. 1772, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1772, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 811-14)

recommending that H.B. No. 1880, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1880, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PODIATRISTS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 812-14) recommending that H.B. No. 1882, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1882, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PODIATRISTS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 816-14) recommending that H.B. No. 2099, HD 1 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2099, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 818-14) recommending that H.B. No. 1579 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1579, entitled: "A BILL FOR AN ACT RELATING TO JUDGMENT LIENS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Hanohano voting no, and with Representative Ing being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 824-14) recommending that H.B. No. 1504, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1504, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 829-14) recommending that H.B. No. 2333, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2333, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE INTEGRATED SEX OFFENDER TREATMENT PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 835-14) recommending that H.B. No. 1514, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1514, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 843-14) recommending that H.B. No. 1745, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1745, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative McDermott voting no, and with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 854-14) recommending that H.B. No. 2448, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2448, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 862-14) recommending that H.B. No. 2288, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2288, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 865-14) recommending that H.B. No. 1692, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1692, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 871-14) recommending that H.B. No. 2593, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2593, HD 1, entitled: "A BILL FOR AN ACT RELATING TO URBAN ART," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 874-14) recommending that H.B. No. 1901, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1901, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WILDLIFE," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 887-14) recommending that H.B. No. 1780, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1780, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHILD SUPPORT ENFORCEMENT AGENCY," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 890-14) recommending that H.B. No. 2251, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2251, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

THIRD READING

H.B. No. 1656, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1656, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE OF PROCESS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 1300, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1300, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A FIDUCIARY'S STANDARD OF CARE AND PERFORMANCE," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 2041, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2041, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FRANCHISES," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 474, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 474, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 2215, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2215, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 1712:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1712, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 2508:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2508, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF FUNDS FOR PUBLIC EMPLOYMENT COSTS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 1572:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1572, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO THE DEPARTMENT OF THE PROSECUTING ATTORNEY OF THE COUNTY OF MAUI," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

H.B. No. 2427, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2427, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REPEAL OF NON-GENERAL FUNDS," passed Third Reading by a vote of 50 ayes, with Representative Ing being excused.

At 9:21 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1570, HD 1
 H.B. No. 1669, HD 2
 H.B. No. 2262, HD 2
 H.B. No. 1664, HD 1
 H.B. No. 2304, HD 2
 H.B. No. 737, HD 2
 H.B. No. 1754, HD 2
 H.B. No. 1976, HD 2
 H.B. No. 1958, HD 2
 H.B. No. 1667, HD 3
 H.B. No. 1771, HD 2
 H.B. No. 2426, HD 1
 H.B. No. 1772, HD 1
 H.B. No. 1880, HD 2
 H.B. No. 1882, HD 2
 H.B. No. 2099, HD 1
 H.B. No. 1579
 H.B. No. 1504, HD 2
 H.B. No. 2333, HD 2
 H.B. No. 1514, HD 1
 H.B. No. 1745, HD 2
 H.B. No. 2448, HD 2
 H.B. No. 2288, HD 1
 H.B. No. 1692, HD 2
 H.B. No. 2593, HD 1
 H.B. No. 1901, HD 2
 H.B. No. 1780, HD 1
 H.B. No. 2251, HD 1

H.B. No. 1656, HD 1
 H.B. No. 1300, HD 1
 H.B. No. 2041, HD 1
 H.B. No. 474, HD 1
 H.B. No. 2215, HD 1
 H.B. No. 1712
 H.B. No. 2508
 H.B. No. 1572
 H.B. No. 2427, HD 1

At this time, the Chair stated:

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

At 9:21 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:23 o'clock a.m.

ORDINARY CALENDAR

UNFINISHED BUSINESS

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 765-14) recommending that H.B. No. 1024, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1024, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In support, brief comments. Thank you, Mr. Speaker. I am in support of this measure but I want to be clear that I am somewhat disappointed in what the HD 1 turned out to be. But in the big scheme of things, I will be voting yes on this measure without reservations because I still believe in the principle.

"I would direct the Members' attention to the committee report which made clear that, overwhelmingly, the testimony was in support, including testimony from the Attorney General, the Department of Land & Natural Resources, the Mayor of the City & County of Honolulu, the Mayor of the County of Hawaii, the Mayor of the County of Maui, the Mayor of the County of Kauai, the Council Chair of the Council of Maui, the Council Member of the 4th District of the City & County of Honolulu, the Kauai Fire Department, the Ocean Safety Bureau of the Kauai Fire Department, the Ocean Safety Division of the Honolulu Emergency Services Department, the Hawaii Fire Department, the Hawaii State Fire Council, the Honolulu Fire Department, the Kauai Visitors Bureau, the Kauai Lifeguard Association, the Hawaiian Lifeguard Association, the Injury Prevention Advisory Committee, Outrigger Hotels Hawaii, Waikiki Improvement Association, the Poipu Beach Resort Association, the Kauai Chamber of Commerce, and many individuals testified in support of this measure. There was only one individual who testified in opposition to this measure.

"I was present that day during the hearing and the room was essentially packed for this bill. Really, the original bill was to remove the sunset provision and to ensure that our lifeguards had the protections that they need, particularly on the neighbor islands, Mr. Speaker, as our county lifeguards are the ones who man the state beaches. And absent gross negligence, the fact is that they put their lives on the line, not only for our residents but for our tourists as well.

"They play a very, very important part in our tourism. And so they should have the protections they deserve. And every year they have to come back here and beg for these protections. Yet all we do is to continue to slap them in the face and just extend the sunset. That's kicking the can down the road. It's not making a strong policy statement that once and for all we will support our lifeguards, as they are first responders, they put their lives on the line, not only for our residents but for our tourists alike. For those reasons, Mr. Speaker, I am disappointed with this draft, but I will support it because a half of a loaf is better than none. Thank you very much."

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

"Mr. Speaker, in support. The reason the committee did what it did on this bill is because the lifeguards have a lower standard of care, from what I can tell, from what we were able to ascertain at the committee, from any other class of people including doctors, EMS professionals, firefighters, police officers, I believe are all subject to simple negligence lawsuits.

"We've set up a system where lifeguards are the only ones who don't have to live up to that standard. And yes, they do put their lives on the line for us, as do other people who have a different level of negligence that they have to abide by.

"So the bill is moving forward, but it is a very unusual legal situation, and that's why we put the three year limitation on it, because I don't know what the rationale at this point is for treating lifeguards any differently than those other members of our society who are trying to help us and are willing to put their life on the line for us. Thank you."

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

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, as the Representative of the 14th District, I see first hand how large a role our lifeguards play in the protection of our state beaches. For example, on Ke'e Beach alone, in 2008, there were 44 rescues, 6,809 preventions, and zero deaths. In 2009, there were 52 rescues, 17,006 preventions, 132,740 beachgoers, and zero deaths. In 2010, there were 34 rescues, 13,488 preventions, 120,712 beachgoers, and zero deaths. In 2011, there were 33 rescues, 13,385 preventions, 107,988 beachgoers, and zero deaths. In 2012, there were 28 rescues, 16,572 preventions, 120,648 beachgoers, and zero deaths. In 2013, there were 42 rescues, 16,423 preventions, and zero deaths.

"Mr. Speaker, keep in mind these figures are for one beach. It is evident that these bravehearts put their lives on the line to protect our *keiki*, our *kupuna*, our locals and our visitors. Mr. Speaker, with each prevention and rescue, our lifeguards prevent the heartbreak that parents, children, family and friends are dealt when losing someone to drowning. Mr. Speaker, this bill protects those who protect us. It is a means to return the favor. Mr. Speaker, as the bill goes through, I hope the sunset date is removed and repealed, which is the original intent of the bill."

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support. Our lifeguards become the doctor, the fireman, the savior of those in harm while in our ocean. Liability needs to be extended indefinitely. Thank you, Mr. Speaker."

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

"In support, Mr. Chair. I'd also like to have the words from the Representative of Kapolei inserted as if they were my own. Just one addition, Mr. Speaker. The last time this bill was extended, it was extended for five years. I don't understand the rationale behind three, but the last time it was extended, it was five. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. First of all, may I have the words from the good Representative from Kapolei entered into the Journal as if they were my own. Secondly, Mr. Speaker, I represent an area, Keawaula, that is a state owned beach that we have city lifeguards that manage that. And the next lifeguard to that beach park is probably 15 miles away. As the Representative from Kauai has stated, the last time the sunset was five years.

"My only problem on this measure is, take the sunset away, or at least it should be the five years. I don't feel we should have our lifeguards coming in here every few years, begging to have this extended. I think they do an excellent job. In fact, I remember Keawaula when there were no lifeguards out there. I appreciate the intent by the Judiciary Chair and I'm hoping that the Senate will possibly move it back to the five years for this time period. Thank you, Mr. Speaker."

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

"Mahalo ho'omalu 'olelo. Kako'o loa. Makemake au ka ha'i 'olelo o ka luna maka'ainana mai Kapolei mai e komo i loko ka puke hale luna maka'ainana. Mahalo."

The Chair addressed Representative Hanohano, stating:

"Representative Hanohano, could you please translate for the Members?"

Representative Hanohano rose, stating:

"*A'ole wau e makemake e unuhi mai.* I don't want to translate. *Mahalo.*"

At 10:30 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:30 o'clock a.m.

At this time, the Chair stated:

"Thank you very much, Members. I just wanted to remind the Members that pursuant to the House Rules, we do have a code of conduct. Rule 60.1 provides, 'Members should conduct themselves in a respectful manner, acting at all times in a manner that promotes public confidence in the integrity of the House.' Rule 27.7 provides, 'It is not the person but the measure that is the subject of debate, and it is not allowable to arraign the motives of a member, but the nature or consequences of a measure may be condemned in strong terms.'

"The Chair humbly asks that the Members abide by the Code of Conduct, Decorum and Order. Thank you very much."

Representative Ward rose to a point of order, stating:

"Mr. Speaker, point of order. Point of information. This issue came up I believe a couple of years ago when Speaker Souki was, I believe, sitting in the back. And there was a Hawaiian phrase and he said, 'look, I want a translation.' And there was a recess, and Mr. Funaki and others settled and came back and forth and said, 'Well, according to the constitution, there are two official languages, English and Hawaiian. Therefore, no translation is needed.' That was the prevailing legal authority two or three years ago. So, Mr. Speaker, I think you've sort of varied a little bit off course from that. It is still an official language. Thank you."

The Chair then stated:

"Thank you. Again, Members, it is correct. Hawaiian and English are the two official languages pursuant to the Hawaii Revised Statutes. So there's no problem there. I'm just asking that Members follow proper conduct, order and decorum, that's all."

Representative Ward: "Mr. Speaker, the point was, the legal prevailing authority was that there was no need for a translation. Legally speaking, that's what was said."

At 10:33 o'clock, Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:33 o'clock a.m.

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

"Thank you, Mr. Speaker. I'll be voting with reservations on this measure. I ask that the words of the Representative from Kapolei be entered into the Journal as my own. Just further, I really appreciate the work that the lifeguards do and I frequent both the north and south shores. And you know, I see them out there pulling people from these dangerous surf where, obviously, they shouldn't be going out. There are signs posted, they go up and down the beach warning people with bull horns, but still yet, sometimes you have *malihines* and visitors, those who are not familiar with the ocean, venture too far into the surf zone.

"So that really endangers these first responder lifeguards. So I appreciate the dangerous work that they do, especially during the winter season on the North Shore. It is dangerous. And this year, Mr. Speaker, we had some historic high surf, high tides. Just really big waves, and it was very

dangerous along the entire coast. Those lifeguards are out there putting themselves in harm's way.

"So, I think we really need to understand who we are trying to address and their work conditions as state employees at the front end of providing safety and security for all of us, including our visitors and the *malihine*. So with that, Mr. Speaker, I support this measure and I hope as it moves through, maybe we can extend the protections currently afforded to this very special class of public workers. Thank you."

Representative Carroll rose in support of the measure and asked that the remarks of Representatives Har and Oshiro be entered into the Journal as her own, and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of HB 1024. The purpose of this measure is to permanently extend the law providing county lifeguards protections from liability by repealing the sunset date of Act 170. By extending the length of time that these protections afford our lifeguards we are protecting those who put themselves in harm's way to protect our beachgoers, locals and tourists alike. It is imperative for our state's ocean safety to be able to continue to provide lifeguard services on both state and county beaches. Without the protections from liability that Act 170 provides we will more than likely lose lifeguard services at beaches around the state.

"Following the enactment of Act 170, there have been tens of thousands of rescues and preventative actions by lifeguards each year on every state beach park on Oahu, Maui, Kauai and Hawaii Island, rescues and preventative actions that would not have occurred if Act 170 had not been in effect and lifeguards had not been assigned to those beach parks.

"Mr. Speaker and distinguished Members of this Body, Act 170 is a life-saving measure that deserves to be made permanent. I urge everyone to please take careful consideration of this bill and to vote in support of HB 1024. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1024, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY," passed Third Reading by a vote of 51 ayes.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 766-14) recommending that H.B. No. 2552, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2552, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RESOURCES," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 767-14) recommending that H.B. No. 1639, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1639, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED CONTRACTOR FRAUD," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 768-14) recommending that H.B. No. 1382, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1382, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I would like support with reservations on this measure. My reservation is the definition of tow-in surfing. I think we should leave that to the department and maybe some discussion with the public before we, as legislators, create that definition in this particular measure. But the rest of it I was kind of okay with. Thank you very much, Mr. Speaker."

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

"I'm in opposition, Mr. Speaker. Surely the crash a few years ago gave us all a moment of pause. And these vehicles that are rented certainly should have a governor on them to prevent them from going fast, because these people don't know what they're doing. However, in the rural areas or other areas where these are permitted, I don't see how anyone is actually going to enforce this. And then that contributes to us passing meaningless or unenforceable laws which, I think in the long term, devalues what this Body does. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support with strong reservations. First of all, this bill is effective upon approval. My concern is similar to one raised by the Representative from Waianae, whose district aligns the Waianae coast. In particular, it's the section that would allow exemptions from the speed limits of 30 miles per hour to those who are emergency service personnel, law enforcement officials, or persons operating a thrill craft for another engaged in tow-in surfing. I think that's where I have some very, very strong concerns."

"First of all, Mr. Speaker, I've been contacted by several folks from both the neighbor islands as well as from North Shore Oahu, having concerns with this provision here. I don't know how many people understand that currently there is an ongoing problem with multiple users in the current surf zone right now. You've got boogie boarders, you've got long boarders, you've got short boarders, you've got guys on stand up paddle boards, and now you have another group of folks out there with motorized ocean motorcycles, or jet skis, out there in the same area. And the area can be as small as this Chamber area here. You have multiple users of the same wave and tide conditions at the same time."

"I think by doing this, we basically allow statutorily and give permission to those operators of thrill craft for tow-in surfing through vehicle. And that's a concern that's been raised. In particular, this gentleman from the island of Maui called me regarding what's been going on at Peahi, also known as Jaws of Maui, where you have people who have little skill, both to operate the jet skis, also to be towed in to these larger sized waves, with absolutely no skill or no conditioning. They shouldn't even be out there. But because of the technology and the ability to be towed in to these larger waves, put themselves at peril and also other surfers and users in the area. So that's a concern that was raised by this gentleman from Maui."

"That's basically the concern I have right now, Mr. Speaker. We'll see what happens. Maybe the Senate will take a look at this and try and accommodate some of the concerns that have been raised by these watermen and waterwomen out in our surf zone. Thank you."

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

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

"Mr. Speaker, in support. I've got to admit that at the committee level, I was the one that suggested to the Chair that we add in tow-in surfing from exemptions. It wasn't because I wanted to promote or create more proliferation of these types of surfing in places where it's not appropriate. My main reason for asking for the exemption is that I didn't want to put these tow-in surfers that are out in gigantic waves at risk if they couldn't get out of the way because they were limited as far as the amount of speed by governors. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. First, I have a potential conflict I'd like to disclose. I've actually been one who's done tow-in surfing before. Pretty cool, but not Jaws. Total disclosure," and the Chair ruled, "no conflict."

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

"In support. The words of the previous speaker really hit home, and as one who's had the opportunity to do this, not in Jaws area but outside Third Reef in Kahana, I can tell you that if you see anybody out there, they're probably in trouble, Mr. Speaker. Because those waves are huge, you're way out in the channel, and you've got to tow-in well before they start to break, which puts you way, way beyond the area of paddle boarders and even some of the regular surfers and stuff like that."

"So, I do support the amendments that were made on behalf of the Representative from Kauai, but just as a real world thing, especially in the areas not Jaws, tow-in surfers rarely encounter the same other water users because of the size of the waves and where they have to tow-in to get into the wave. Thank you very much."

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of this bill, but with reservations."

"First, the Department of Land and Natural Resources testified:

"In November 2012, Section 13-244-15.5, Hawaii Administrative Rules, was amended to read that any person operating a power driven vessel on the waters of the state shall be required to possess a certificate of completion from a National Association of State Boating Law Administrators approved course on the safe use and operation of a power driven vessel. Further, a person under sixteen years of age shall not operate a power driven vessel unless accompanied on-board and directly supervised by a person twenty-one years of age or older who holds the required certificate of completion. The Department believes that education regarding safe use and operation of all power driven vessels is superior to just banning the speed of jet skis."

"I agree with this assessment and approach. Just merely prohibiting the operation of a jet ski over a certain speed does not protect the public unless sufficient resources are provided for enforcement and educating our citizenry on the proper and safe operation of these vessels. Without these essential components, a measure like this just clutters our statutes with more words and no substance. If this Body truly feels this is a priority, then it is my hope that the budget will include sufficient resources for these purposes. If, however, there isn't, then we shouldn't mislead the public into thinking we are protecting them when we really are not."

"Second, I have serious concerns regarding the exemption from the 30 mph speed limit for a person operating a thrill craft in conjunction with 'tow-in surfing' as defined. The problem is that the proposed definition of 'tow-in surfing' could be construed to sanction the use of thrill craft to assist a person catching a wave 'of more than 20 feet in height'. Probably, unbeknownst to most Members is the on-going and increasingly heated 'discussion' on how to regulate or prohibit the use of thrill craft and tow-in surfing in surf breaks where prone paddlers catch waves of more than 20 feet in height."

"With the use of thrill craft, tow-in surfing has become more popular and more accessible to many more people. However, there have been too many reports of tow-in enthusiasts monopolizing waves and in crowded conditions endangering the property and lives of other surfers. Furthermore, there is a belief among many old time surfers that tow-in surfing should only occur in places where it is physically impossible to paddle into a wave. That means that for places like Waimea Bay, Sunset,

Pipeline, etc., and even on some days at Peahi ('Jaws'), tow-in surfing should not be allowed. For example, surfers usually paddle into 25 foot surf at Waimea Bay during the winter, while outside of Ehukai Beach Park others are towing-in surfing on 33-40 foot waves.

"Certainly, I understand the need for a thrill craft used in rescue or law enforcement, but to inadvertently condone and permit the use of thrill craft and tow-in surfing may lead to more conflicts in our ocean recreational areas. As such, further contemplation of this type of measure needs to involve the stakeholders who both practice prone surf and tow-in surf on waves of more than 20 feet height.

"To that extent, I support this measure with reservations."

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

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise with reservations. I would also like to include that my concerns come from that of those who have no business being in high surf conditions, yet being allowed to use their thrill craft to tow in as well as novice surfers being allowed to jeopardize their lives and the lives of others. Lastly, with the lack of law enforcement, I am not sure that this measure will be adequately staffed or enforced. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 770-14) recommending that H.B. No. 2034, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2034, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Carroll's written remarks are as follows:

"I am writing in support of HB 2034, which removes the statute of limitations for criminal actions arising from sexual assault in the first and second degrees. By eliminating the statute of limitations we can provide survivors of sexual assault with additional time to engage with the legal system so victims can attain justice and some sense of closure.

"It is highly common for survivors to wait years before disclosing any abuse (if they disclose at all). For child victims of abuse and rape, this legislation is even more important because children rarely disclose, with sometimes a 3-18 year delay in disclosure. This delay in disclosure means that victims may miss the crucial time in which they can report the sexual assault and at the very least, have their respective case be investigated by law enforcement as a potentially prosecutable offense. Adult perpetrators recognize this vulnerability in victims and use this to their advantage.

"The current statutes of limitation for criminal and civil actions involving sexual violence limit survivors' ability to report and seek justice for the underlying criminal act. Many states have recognized this as an important factor when looking at statutes of limitations. In fact, at least 32

states have no criminal statute of limitations on child sexual abuse or the most aggravated sex crimes.

"Opposition claims that this bill would open the floodgates or cause concern for fraudulent claims. However, in the 32 states where they have no statute of limitation, this has not been the case. Additionally, this legislation does not change the burden of proof nor does it make it easier for sexual assault victims to prove their case. This legislation merely allows more survivors of sexual violence to access the justice system and feel as if they've been heard.

"Mr. Speaker and distinguished Members of this Body, this measure is an important step for many survivors to recover from trauma. I urge everyone to please take careful consideration of this bill and to vote in support of HB 2034. Thank you."

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

"Thank you, Mr. Speaker. In strong support and request to insert written comments."

Representative Belatti's written remarks are as follows:

"I rise in strong support of House Bill 2034, House Draft 2 that removes the statute of limitations for criminal actions arising from sexual assault. In particular, I support the provisions removing the statute of limitations for continuous sexual assaults committed against a minor under the age of 14. As this bill moves forward, I urge my colleagues to reconsider and allow civil causes of action for those survivors who live with the trauma of sexual assault.

"As noted in the testimony provided by the Hawaii Commission on the Status of Women, this measure would place Hawaii among the other 32 states that have no criminal statute of limitations on child sexual abuse or the most aggravated sex crimes.' House Bill 2034 is not intended to nor does it change the burden of proof to make it easier for sexual assault victims to prove their case. This legislation merely allows survivors of sexual violence to access the justice system and begin to overcome the harm, shame and silence that survivors struggle with each day.

"As noted by many of the testifiers who came forward in committee hearings, sexual assault is one of the most underreported crimes and to make a report takes tremendous courage. I applaud many of the survivors who came forward to testify on behalf of House Bill 2034."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2034, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Third Reading by a vote of 51 ayes.

Representatives McKelvey and Rhoads, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 771-14) recommending that H.B. No. 2401, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committees be adopted, and that H.B. No. 2401, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, may I have a ruling on potential conflict please? At my law firm I represent AOAOS, as well as condominium owners. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 2401, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 772-14) recommending that H.B. No. 1604, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1604, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 51 ayes.

At 10:44 o'clock a.m., Representative Cabanilla requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:44 o'clock a.m.

At 10:45 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1024, HD 1
H.B. No. 2552, HD 2
H.B. No. 1639, HD 1
H.B. No. 1382, HD 1
H.B. No. 2034, HD 2
H.B. No. 2401, HD 2
H.B. No. 1604, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 773-14) recommending that H.B. No. 1647, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1647, HD 2, entitled: "A BILL FOR AN ACT RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF THE PROSECUTING ATTORNEY OF THE CITY AND COUNTY OF HONOLULU," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 775-14) recommending that H.B. No. 2080, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2080, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Thielen's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of this measure.

"This bill addresses theft of certain personal electronic devices and classifies the offense as Theft in the Second Degree, a class C felony.

"A class C felony is punishable by five years' probation and a fine of up to \$10,000, or five years in prison and a fine of up to \$10,000.

"Some ask why this bill is needed, if Theft in the Second Degree already addresses theft of property valued at over \$300. There are many personal electronic devices that qualify as a 'computer' capable of 'storing or retrieving personal information' that are valued at \$300 or less. And, as the technology improves, prices become lower and lower.

"We're living in the digital age, where technology and information is literally right at our fingertips – in the form of cell phones, tablet computers, cameras, and other devices designed to access the internet, process data or store information.

"These devices have enriched our lives, but their portability makes them attractive targets for thieves. The devices are popular and there is a market for them online, where the seller isn't necessarily required to show proof of

ownership. The stolen goods can also be easily sold at swap meets or taken to a pawnshop.

"Often, the information stored on these personal electronic devices is personal or highly sensitive – such as our names, DOB, home address, SSN, account passwords, and credit card or bank account information.

"Theft of these devices results in not only the owner being deprived of her/his property, but also the owner's vulnerability to identify theft.

"Hawaii has lower rates of violent crime, but higher rates of property crime compared to other states. As you know, my district has experienced a rash of violent as well as property crimes over the past year.

"Law enforcement and prosecutors see, on a regular basis, cases where adults and juveniles have a smartphone or iPad taken from them. This happens frequently in broad daylight. It happens on school campuses. It happens at bus stops and in public parks. It can happen to your neighbor or friend. It can happen to you, an elected official. Just think of how much personal information is stored on your smartphone – work emails, constituent contact information, passwords, etc.

"Something needs to be done about this type of property crime that seriously victimizes others and exposes them to identity theft and fraud later down the road. I believe this bill does just that by making the theft a felony, meaning it will be investigated in more detail by police and punished more severely by courts.

"Please support this bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2080, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THEFT OF PERSONAL ELECTRONIC DEVICES," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 776-14) recommending that H.B. No. 1796, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1796, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise with strong reservations. I would like to bring to your attention the testimony provided in the House Judiciary Committee. Kalama K. Wong states in testimony, 'In light of what happened at Kipapa Elementary, Puohala Elementary, Holomua Elementary, and other schools that have not come to light for the general public, it is evident that the Hawaii DOE lacks the judgment and ethics to determine which situations are appropriate for such extreme measures. Furthermore, the Hawaii DOE lacks the judgment, ethics, and expertise to implement such measures. The Hawaii DOE should NOT be given the option of restraining and secluding children, particularly special education children, who are the specific targets of this bill.'

"For these reasons, I rise with reservations. Thank you, Mr. Speaker."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1796, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 778-14) recommending that H.B. No. 2496, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2496, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, I have some reservations on this measure but I'll be voting in support of it. The concern that I have is limiting the selection of the representative of management, which is currently without any restriction to names. The current draft states that the Governor will have to consider any names submitted by the counties, provided each county may submit no more than one name. I have concerns with that particular provision. Thank you."

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

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise with reservations. My reservation in part is that the Attorney General has opposed this bill because as stated in testimony, 'it is ambiguous, possibly deficient, and not evenhanded or balanced.' In addition, the Chamber of Commerce of Hawaii stated that it opposed this bill for the same reasons. Let's not try to fix something that is not broken. For these reasons, please note my reservations. Thank you, Mr. Speaker."

Representative Fale 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. 2496, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII LABOR RELATIONS BOARD," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 779-14) recommending that H.B. No. 2621, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2621, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT ACCOUNTABILITY," passed Third Reading by a vote of 51 ayes.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 780-14) recommending that H.B. No. 1814, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1814, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise today with reservations to HB 1814, HD2. Allowing employers to pay wages by pay cards or similar means of electronic payment will create protection for the employees. This bill is meant to safeguard employee rights to their wages without being overburdened with additional fees when they access their wages. I recognize the hardship that employees face, particularly low-income workers, when they are required to pay fees to access their wages, and I hope that, through the legislative process, this bill will be improved. Right now, I still have concerns that this measure is overreaching and potentially violates the rights of employers to run their businesses in a manner that is easiest for them and their workers. For this reason, I vote with reservations on this measure. Thank you, Mr. Speaker."

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

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

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

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

Representative Tsuji 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. 1814, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PAYMENT OF WAGES," passed Third Reading by a vote of 51 ayes.

At 10:50 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1647, HD 2
H.B. No. 2080, HD 2
H.B. No. 1796, HD 2
H.B. No. 2496, HD 1
H.B. No. 2621, HD 2
H.B. No. 1814, HD 2

Representatives McKelvey and Rhoads, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 783-14) recommending that H.B. No. 2361, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committees was adopted and H.B.

No. 2361, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 784-14) recommending that S.B. No. 60, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and S.B. No. 60, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIMS OF CRIMES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 785-14) recommending that H.B. No. 1651, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1651, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise in opposition to this measure. This is one of three mother of all tax increases for this session. Mr. Speaker, and I'm going to increasingly speak more as each of these bills come. So, on this one I'll be very brief. This is not fair to the people of Hawaii. The cost of living is going to go up. And I will expand on this as we get to the other two extremely big tax increases that are implied by this streamline and internet Amazon tax. Thank you."

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

"Thank you, Mr. Speaker. I'm in support of the bill. I'd like to thank my friend from Hawaii Kai for those short comments. If I could just make some very long-winded comments on this bill. Mr. Speaker, I stand in support of this bill.

"Mr. Speaker, I've been involved in the subject of internet sales since 2006 when I chaired the Tax Review Commission. Since then, my thinking has not evolved on this matter. I still support the concept. Mr. Speaker, in the arena of public finances, we all know that the major source of funds is taxes. I can understand that most people find paying taxes distasteful. But we should all admit that we enjoy the services that are provided by our government. Our revenue scheme is based on the premise that we all pay our fair share. And if one segment of our community does not pay its fair share, then others in the community must make up the difference.

"In other words, I'd like this Body to think very, very hard about the effects of not supporting this bill. If sales through the internet soars, and we know during this past Christmas, internet sales soared, and our General Fund is not supported, then we as a Body have to make decisions and raise taxes on those who do pay their fair shares, our local businesses. The people that will benefit will be the out-of-state businesses that make sales to our residents.

"Mr. Speaker, as you know, the purchase of goods over the internet is a growing phenomenon, something that was not contemplated by our forefathers, especially when interpreting the commerce clause of our constitution. Some people argue that this bill violates the commerce clause of our constitution. The commerce clause simply states, in this situation, that you have to have nexus in the state where you collect taxes.

"Further, the Supreme Court, in *Quill v. North Dakota*, states that physical presence is necessary to establish nexus. *Quill v. North Dakota* was in 1977. This case was prior to the discovery, or at least the spread of the internet. And in fact, for those with gray hair in this room, we know *Quill* was a catalog mail order stationary company. I know because I used to use them.

"Mr. Speaker, what this bill does is introduce the concept of economic and substantial nexus to a definition of nexus to fit into the situation created by the internet. The practical effect of this measure is quite simple.

All it says is if you sell products to people in our state, you must pay General Excise Taxes, the same as any local business.

"Now, Mr. Speaker, you would hear from some in this Chamber that say this is a tax increase. And maybe we should talk about that. In order to be a tax increase, you have to assume that taxes were not owed in the first place. Mr. Speaker, you know when you buy something over the internet, you have to pay taxes. I know we don't want to pay taxes, but we have to pay taxes. And it's the Use Tax, which is the equivalent to the General Excise Tax. But if you carry that argument forward, if there's already a tax due, it cannot be a tax increase. Unless of course you want to cheat on your taxes, but I can't help that and I don't want to speak on that.

"Mr. Speaker, we must support our local businesses who have invested in our community. We must be fair to the local people who support our state. We must be proactive and creative to keep up with the changing times. Mr. Speaker, it's for these reasons that I support this bill. Thank you."

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

"In opposition, Mr. Speaker. I've had some long discussions with both of the previous speakers, Mr. Speaker, on this measure. It's something that I don't believe that I have come to any final conclusion about, because what apparently seems to happen with this measure is that we're pitting our local businesses against our consumers, because the status quo allows those members of our community, the consumers here in the state. This measure highlights something that is still pretty problematic.

"As the previous speaker noted, we have to protect our local businesses because those who operate over the internet have an advantage because the taxes don't apply to them the way it applies to local businesses that are established here in the State of Hawaii. But, if we were to increase, I just had a conversation with some of my old college friends, who live here in Hawaii, who begged me to vote no on this measure because this is one of those small pipelines where they can actually save a few dollars, by going online and making a purchase through the internet, Mr. Speaker.

"So I find myself in an uncomfortable position to vote for a measure that would automatically increase the cost of living for young and working families that are struggling to make it here in the State of Hawaii. But I was also in a Chamber of Commerce meeting out on the North Shore where the businesses did relay to me their concern of the disadvantage that they face when competing against online companies that are competing against them here in the State of Hawaii.

"Mr. Speaker, what I actually believe this highlights for us, is that we are faced with a severely problematic situation. Because I asked, why don't we just lower the taxes on our lower businesses? Then they'll be able to compete on a fair playing field. Why do we have to allow the advantage, or even the playing field, by punishing consumers here in the State of Hawaii? Why can't we lower the tax rate on the businesses here, so that they can compete on a level playing field?

"Mr. Speaker, this is severely problematic, as it relates to the tax revenue that the state and the cities here in Hawaii have access to, as far as the revenue streams. I think this points to a failure in leadership on our part, Mr. Speaker. For the last few decades we continue to hear about a diversification of the economy to improve economic opportunity here in the state. And decade after decade, Mr. Speaker, we really haven't fully delivered on those promises that have been made.

"I think that points to a vacuum that we need to feel as leaders in providing those opportunities and not necessarily have to take a side. Well, do we increase the cost of living for young working families here? Or do we go out and protect our small businesses? I think this is an opportunity where we really need to step in and lead, Mr. Speaker, and not have to choose between who do we hurt in this situation, because both of those groups are in desperate need of our help. I think maybe we can address this in a better way. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support. Mr. Speaker, it is our responsibility to adapt as times change, markets change, trends change. And as we know, the internet is becoming more and more popular. And we have to figure out how do we maintain our revenues. It has been said to me by many economists and my good friend two chairs over, that it is better to tax wealth than to tax income. What that means is that we should tax how we spend and reduce income tax, which I think our Speaker has always supported that, and I've kind of always supported that also.

"So we stay revenue neutral, but we tax you on how you spend. You want to spend, you want to buy luxury homes, you want to buy those types of things, we tax you accordingly. Those are the types of principles I think that is important to drive the economy. We want to keep money in the pockets of our consumers, so that they have money to spend, so we reduce income, or we tax them on how they spend, and I think that's a better way to go.

"So I think as times change, we need to adapt. This is one of the measures that may be necessary to adapt. Also, Mr. Speaker, I'd like to adopt the words of the speaker from Manoa as if they were my own, with a slight correction. He was the Tax Review Commission Chairman in 2005. Thank you."

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

"Mr. Speaker, I'm casting a no vote on this one. I view it as a tax increase. There are many factors that go into online shopping, but there comes a tipping point when the things that you purchase online, the shipping cost outweigh those which you can buy here locally. For example, a pair of slacks. You can get them cheaper at Costco than you can buy a single pair online when you include the shipping. So, it's not really an 'us versus them' issue. So, when you go against the store that can bring in large items in bulk and save in the shipping, we bring a container load of slacks and buy one single pair, it kind of evens out.

"Second issue is, I haven't had one person come into my office and say, 'Please, whatever you do this session, tax my online purchases. I need that done.' Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. First, before I start speaking, may I adopt the words from the good Manoa Representative as if they were my own into the Journal? Secondly, this is not a tax increase. Currently, as consumers, I'm not talking about a business, me as an individual going onto the internet and purchasing something off our islands, meaning out-of-state. I'm still required to pay my use fee, which is also known as General Excise, to our Department of Taxation. I'm required to do that.

"So, if I buy something from Sears off the internet, I need to go pay my Use Tax. Many people don't understand that. That is our law today, and I think for many, many years. That's not just imposed upon me operating a business and buying something from, yes I remember Quill. I purchased from Quill also. Quill used to be a mail order company for accounting materials, and we would have to purchase it through the phone and it would arrive and we'd pay.

"Nowadays, we have the internet. So, our Department of Taxation way back then had the user fee. If you purchased something through mail order you'd pay your user fee. That hasn't changed. If you purchased something through the internet, you pay your user fee. So I don't see where this is a tax increase. What I see is, this is trying to capture those individuals that sell the product, and requiring them to collect the dollars and send it to our Department of Taxation. This is trying to make that clear.

"I hope everybody understands how much money we are losing with this. We all heard through many media about the internet travel sales, and our current lawsuits on trying to get that money back to the state, in excess of \$100 million. That pays for a lot of salaries. That pays for a lot of road repaving. That pays for a lot of services to our most vulnerable populace, as well as our elderly.

"So, when we're talking about bills on this Floor regarding Medicaid, and emergency appropriations, and paving or building new roads, or new schools in new districts, we better think twice when somebody's going to say 'with reservations' or 'no' on trying to collect something we currently have in statute. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, in support. I think most of us in here have taken an intro economics class. If the free market is to work, the best type of taxes we need to levy is the low-rate broad-based tax. Fortunately in Hawaii, the General Excise Tax is such a tax. Unfortunately, in the wake of the advent and proliferation of the internet, there's been some disparities in this tax. With these disparities, it throws off the equilibrium, increases deadweight loss, and reduces the aggregate welfare or utility. Not just for consumers, but for businesses as well.

"This bill will help brick and mortar, ma and pa shops, which drive our economy and provide jobs for many local workers. So, on behalf of the Hawaii Chamber of Commerce and the interests of small business and to keep our local money circulating in our local economy, I stand in support. Thank you."

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

"Thank you very much, Mr. Speaker, in strong support. This is one of three bills dealing with internet sales tax, which we'll be moving out to the Senate today. Let me just incorporate the words of the good Representatives, my friends from Manoa, Upcountry, Kihei, and especially Waianae. She hit the nail on the head. This is not a tax increase. This is something that we expect consumers to already pay. And let me just thank, ahead of time, my friend from Manoa who will be helping me with all three bills, to help sort it out. So, thank you very much."

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

"Mr. Speaker, I wish to speak in strong support of this measure, and I wish to incorporate the remarks from the Representatives from Manoa, from Upcountry Maui, from Waianae, and from the Finance Chairman as my own. I wish the Members would look at this issue as really a bread-and-butter issue. Thank you very much."

Representative Ward rose to respond, stating:

"Mr. Speaker, I revised my strategy. I thought there was going to be a back-loading, not front-loading. And hearing all of the taking of lightly this tax increase, which is really heavy on the people of Hawaii, I'm compelled to speak a second time.

"Two big issues, Mr. Speaker. One is, 'Oh, this is simply not a new tax increase. This is only increasing or enforcing what we've not done.' Historically, what took place in the 70s is that the Use Tax said to the people of Hawaii, 'Everything that you buy, you have to pay the GE Tax on.' Whether you come in as a visitor, you come in when you go back and forth from the mainland, *et cetera*. Mr. Speaker, what they did was pass an unenforceable bill.

"My good friend, the Representative from Manoa, has gritted his teeth for months, years and decades. How can we enforce this unenforceable tax? That's what this bill is all about. It's a huge tax increase that heretofore has never been enforceable. And you know from all of our committee hearings, when any bill is proposed that's not enforceable, we chuck it out. We bat it aside and say, hey, you can't enforce that, or HPD can't do this, or somebody, DNLN can't do that. It's not practical.

"So, for the three decades that this thing has been on the books, which shouldn't be on the books, and assuming in the avarice behind it that everything that you have, you have to pay a tax on.

"Mr. Speaker, what percentage of our goods do we import? We are an island state. We import 80-90 percent of everything we eat, sleep, wear and work with. So to say that we have a use tax that we should be paying, is to say we should be fleecing the people of Hawaii for the last three

decades and right now we're going to make up for it. Mr. Speaker, that's not a just way to look at this thing. This is a huge tax increase of heretofore of which, we've got two other bills, is another way of getting on the internet.

"I grant that inevitability someday soon, not immediate, but this will probably come to pass. But right now, people are still struggling from the recession. People are still having a problem making ends meet. And to say that now with the surplus that the government has, we've got to go and fill up the coffers again, because we've got another tax that we can get and put onto the people.

"One last comment, Mr. Speaker, and that's regarding this even playing field. For 15 years, I was a retailer in Waikiki. At the Royal Hawaiian Hotel, when people would come in and I would ship stuff out, mail order. I would have an exemption to the tax increase. The playing field is even. Everybody who's got a computer can be on the internet and sell anywhere in the world. So to say that there's an uneven playing field is like saying some people can't get onto the internet, some people can't have a website, some people cannot do online sales. That is incorrect.

"The point is, this is a huge tax increase for the people of Hawaii. We are the representatives of the people, and if we want to keep our constituents in tune with what we believe in is the best things for them, we will vote against this bill, because it's not in the best interest. And that's all I have to say. Which is, you said was very short in the beginning. And I front-loaded because the others have front-loaded. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. I'm seeing this matter at a different angle. I'm not saying this is a tax increase or not, or we're front-loading or back-loading or sidestepping this matter. I'm looking at it in a sense that we have an obligation to the future generation. There is a huge debt of this state. We have an unfunded mandate. And we have the obligation to the future generation to get that manner resolved in our generation.

"A measure such as this one should be something that we need to discuss and something that we need to support, because whether it's an even playing field or not, these are measures that would help us with that unfunded mandate. And with that, Mr. Speaker, I would like to call for the question."

At this time, Representative Cabanilla called for the previous question.

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

Representative Choy rose to respond, stating:

"Mr. Speaker, permission to enter written comments to rebut the comments of my good friend from Hawaii Kai. Thank you."

Representative Choy's written remarks are as follows:

"Mr. Speaker, still in SUPPORT, and slight rebuttal to my good friend from Hawaii Kai's statement in regards to his limited business experience. He states that he had a business in Waikiki and when he exported goods out of state he was exempted from paying the GET. He is correct, but what he doesn't realize is that his customers were required to pay the use tax when they received the goods back home in their state.

"Mr. Speaker, this is the reason we have this legislation; to simplify the payment of sales and use tax. If we collected the use tax for the Representative from Hawaii Kai's customers, they would not have to go home and pay it.

"Every state in the union who has a sales tax has a corresponding use tax.

"Now it is very clear why the good Representative from Hawaii Kai doesn't understand this bill, and why he feels this is a tax increase."

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

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations on HB 1651, HD1. This bill requires a collection of use taxes by sellers of tangible personal property who enter into agreements under which a person in the state refers potential purchasers to the seller, including by an internet link or website, or performs related services in the state on behalf of the seller.

"I sympathize with the intent that this bill seeks to address, mainly, that online purchases and transactions ought to be subject to the same tax liability that 'brick and mortar' businesses are subject to in the daily operations of business. For internet sellers, being exempted from the use tax can create unfair advantages and an uneven playing field. This bill would require online sellers to operate under the same rules as these 'brick and mortar' stores, which would facilitate a more fair and equitable marketplace.

"However, it is quite apparent, Mr. Speaker, that Hawaii is this country's most isolated state and as a result relies heavily on the importation of goods. Shipping costs to Hawaii are greater compared to other states because essentially all goods are imported to our island state via freight or air. Therefore, consumers resort to internet-based transactions for items they may not be able to purchase here in our state.

"Our local residents are already burdened with an expensive standard of living and to penalize our constituents for purchasing goods they are not able to procure in our state seems inequitable, Mr. Speaker.

"For the foregoing reasons, Mr. Speaker, I rise with reservations on HB 1651, HD1. Thank you, Mr. Speaker."

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1651, a measure that creates an internet sales tax in the State of Hawaii. Mr. Speaker, it is my belief that a new tax such as this will drive up the cost of living in Hawaii and that Hawaii will become a more expensive place to live for everyone.

"It should be noted that the State of Hawaii Department of Taxation testified to the House Committee on the Judiciary that: 'H.B. 1651 is unnecessary at this time because there is a question as to whether such statutes are allowable under Federal law.'

"For these reasons, Mr. Speaker, I rise in opposition to HB 1651."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1651, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Evans, Fale, Fukumoto, Johanson, Matsumoto, McDermott, Ohno, Thielen and Ward voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 786-14) recommending that H.B. No. 2231, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2231, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Oshiro 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. 2231, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 787-14) recommending that H.B. No. 2533, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2533, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"With reservations, Mr. Speaker. Reservations because this is only going to be a pilot project for Representatives of the State House. During Finance, we had a long discussion with campaign spending, and a few years back when I wasn't here, you folks passed a pilot project for Hawaii Island to do three cycles of elections using public funds. During Finance hearings, they said they can't do that final third election period, which would be this year, come August-November. And they made that decision last year. And that's because their trust fund got reduced below a point that they couldn't offer the funds.

"My concern is, we're going to see that same issue with this measure again, because this measure is based upon their trust funds, although the Finance Chair did put a general appropriation line into this, blanked out currently. I do have some major concerns going forward if we're going to publicly fund every election in the State of Hawaii. At what point and time, when we go into a deficit again, are we going to continue that? I'm not so sure into that future. I feel our campaign spending laws, me as a Representative, I'm limited to \$2,000 in two years. I get a handful of those, if I'm lucky. I think they're quite useful right now.

"I don't think this type of measure going forward is going to be beneficial. Especially when we had to pull back, well the campaign spending had to pull back on that pilot project. I don't want to put something out there just for us here. Although, this is a large group of 51 individuals, which would capture maybe 200 participants in an election period. If we're going to do it, let's do it for everybody. Thank you very much."

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

"Ruling on a potential conflict of interest. I'm the only Member of the Body who participated in the Partial Public Funding Program in 2012," and the Chair ruled, "no conflict."

Representative Ing continued to speak in support of the measure, stating:

"In support. In the Finance Committee we crunched some numbers, we had some questions. I don't have the numbers in front of me, but basically there's, I think, out of the nine seats in the council on Hawaii Island, there were 30-something people who opted into the program, or 20-something. But it ended up being about 37 percent of candidates used the program. If

you look at it in the House, there's an average of about three people per race for the 51 seats.

"So, if you say 153, and you times it by the however much money we're going to get, \$40,000, the amount of funding we'll need will be well under the threshold trigger, of I think \$3.4 million. So I think that number is blown out of proportion and unnecessary, it should be a lot lower. And I think the total of the money that was used in the Hawaii Island project was only like a couple hundred thousand dollars, even though they said they needed these millions in the bank. So I think if we revisit those numbers, it will make this program more viable and sensible.

"Also one last point, this measure requires 200 donations of \$5 or more from registered voters. We all know how difficult that will be. This bill isn't going to illicit this storm of any kine banana candidates. It's not going to be everyone and their uncle. They're going to be people with real grassroots support, and I think that's what politics needs these days. Thank you very much."

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

"Ruling on a potential conflict. I stand to potentially benefit if this legislation were to pass, as an elected official," and the Chair ruled, "no conflict."

Representative Fale continued to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, the opportunity to speak out in the political arena should not be limited to anybody just because they would be required to get 200 signatures or the support of 200 individuals within their community. Some of the greatest political minds that we have in the history of this nation actually came out with just themselves, Mr. Speaker.

"If we were required to allow people to speak out and to have the platform of being a candidate for political office only based on their ability to garner 200 signatures or 200 donations of \$5 from those, I think that's not good for our community, Mr. Speaker. That's not good for the political dialogue that we should have. Sometimes it's just one voice, Mr. Speaker. Sometimes it's just one voice that maybe we should have and maybe is needed to actually change the direction or the destiny of a community, of a state, and possibly a nation, Mr. Speaker.

"My opposition to this bill also extends to the fact that even currently today, Mr. Speaker, we are still faced with the closure of a number of polling locations because we haven't funded them. We have an \$840 million surplus, some like to say, and yet we can't reopen and grant access to the voters of the State of Hawaii to the typical places where they used to vote. We have further isolated, we have further distanced the opportunity for those votes to be heard here, Mr. Speaker. And yet here we are, opening up the opportunity to spend much more money on ourselves, Mr. Speaker.

"I think this is an idea that we have to revisit, that we have to look at again, Mr. Speaker. If we are not able to fund the polling locations for those who want to have their voices heard, Mr. Speaker, I'm not willing to spend another dime on a group of people who probably, most likely would benefit from this. I think it's time that we reassess our position on this, Mr. Speaker. And we need to make sure that we're taking care of our communities and our voters first, before we figure out how we're going to spend more money on ourselves. For those reasons, Mr. Speaker, I must be opposed."

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

"Thank you. In support, Mr. Speaker. It's really unfortunate that the single greatest determining factor for winning elections these days statistically can be traced back to the amount of money spent in a given race. Which means the amount of money the candidates can raise.

"As we all know, and as we hear from our constituents, it's obvious that as an incumbent, you have many advantages. But the single greatest one is the ability to raise money greater than your opponent. What this will do is level that playing field so that money is no longer that determining factor in an average race, but rather the merits of the ideas that can be brought forward and mailed to your community, and ability to get your voice and your ideas out there, just as your opponent is. It is democracy at its core.

"I don't think we can let this debate be boiled down to how much this is going to cost, because you cannot put a price on true democracy. You cannot, cannot pay enough for good government. I think if we could pay more for more trust, that would be fantastic. I think people would support that, even if it cost a few more dollars.

"What this does, is follows in the footsteps of many other states experimenting with this in the past, most recently Arizona. Allowing new candidates who have no political clout, who have no special interest poll, who have none of this, to step forward and run for office on the same plane as those incumbents that they're challenging. To challenge those ideas in the public sphere of influence, to ask the tough questions, to be able to run an election based on that debate rather than the amount of money that they put into the campaign ads that they're putting in front of them. So for those reasons, I support this bill. Thank you very much."

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

"Thank you, Mr. Speaker. I have reservations on this bill. I have three reasons for my reservations, Mr. Speaker. The first was stated by the Representative from Waianae. In the Finance Committee we heard basically, the pilot project is bankrupt. Why is it bankrupt? Because people are not using the check-off to give money, even though it wouldn't take any money away from their tax due or add to their tax payments due. They have said, 'I'm not interested to finance this.' So when we say that people just can't wait to help fund this, I think is a misnomer.

"Secondly, Mr. Speaker, we've had two years to get a written report about what we did right, what we did wrong. Usually you do a kind of a SWOT, strengths, weaknesses, all those kind of things where you evaluate what took place. I have not seen, other than maybe a one page summary after the first year of what actually took place. If we're going to do this and make it widespread now with the House, we should have an evaluation and a report. I mean, that's only a natural thing to do. When you do a pilot, you say here's the results, here's where we go from here.

"Thirdly, Mr. Speaker, this gives such an advantage to the incumbents. All 51 here have a conflict of interest voting for this. And quite frankly, I don't like to be called an 'incumbent leech' or one who's going to sort of tilt the playing field to their advantage. For those reasons, Mr. Speaker, I think we need to think this through, especially if one program that's already on the books can't get funded. How are we going to fund this if the taxpayers don't even want to check off for, quote, 'an experiment on the Big Island.' Thank you, Mr. Speaker."

Representative Fale rose to respond, stating:

"Mr. Speaker, still in opposition and may I have the words of the Representative from Hawaii Kai adopted as my own? Mr. Speaker, I would feel differently about this measure if the first point of this was to go back and fund all the polling locations to give access to the voters of Hawaii a place to vote to make sure that their voices are heard. But that isn't in there, Mr. Speaker. And a single measure allowing the reopening of those polling locations hasn't come through this Body and neither has any discussion taken place in regards to that. Neither is there any intention on the fifth floor to reopen those polling locations, Mr. Speaker. Making sure that the voices of the voters can be heard should be number one, not figuring out how are we going to spend more money on politicians.

"In closing, Mr. Speaker, it was raised that the number one determining factor in someone who's winning a race has to do with money. Mr. Speaker, I personally disagree with that. It comes from the strength, the vitality and ability of an individual to reach within who they are and to get out there, Mr. Speaker.

"If money was the single determining factor in whose voices should get heard, would be heard, then there are problems that go deeper than we're going to be able to solve with this measure right here, Mr. Speaker. I think we need to reassess that. We need to take a look at this, put ourselves in the shoes of the voters first, before we put on our own shoes as political animals, as we are in this building, Mr. Speaker. For those reasons, put the people first, I must still be opposed."

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

"Thank you, Mr. Speaker. In strong support. I'd like to just clarify a statement that I think is incorrect. The statement was made that this bill would limit candidates, those who are only publically funded. It's important to note that what this bill does is provide an option for those who wish to be publically funded in running for House of Representatives.

"I'd also like to note, Mr. Speaker, that what I really appreciate about this bill is that what it elevates is that small voter in a district. If you look at page 8, lines 9 and 10, in order to qualify as a publically funded candidate, you must get qualifying names and contributions of \$5 from an individual who is a registered voter and who resides within the respective representative district from the candidate who's applying for those public funds.

"This amplifies the small voter, this amplifies the voice of the individual that we are all so concerned about. This bill attacks directly, not just simply the funding, the contribution limits to elected officials or to candidates, but this bill attacks the soft money that we are seeing infusing the system, which the small voter, the small individual, feels overwhelmed by. So for those reasons, Mr. Speaker, I am in strong support of this measure. Thank you."

Representative McDermott rose in opposition to the measure and asked that the remarks of Representatives Ward and Fale be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Ing rose to respond, stating:

"Mr. Speaker, I just wanted to clarify some points. Still in support. The Representative from Laie made a point that this requires people to get signatures. I think the Representative from Makiki just alludes to this point. But yes, it provides an option, so it doesn't relinquish the traditional campaign structure. It also doesn't preclude a JFK style candidate from giving huge loans and funding their own campaigns, which I don't necessarily support, but that type of campaign finance structure will still be preserved.

"Secondly, I had a series of meetings with the Office of Elections throughout this session, and there are plans to reopen polling locations and it is one of my priorities to help counties remain funded so we can help modernize our voting system and ultimately increase voting turnout here in Hawaii. So I hope that we can include something like that in the budget.

"Also, one point made by the Representative from Kailua, which I would like to adopt his words, if possible, was that money should not be a part of this discussion. I respectfully disagree in a sense that, in order to build public trust, we need the utmost fiscal responsibility, especially with the huge deficits we've been seeing on the federal level of government. I think people need to know that their tax money is going to the right places. So it is very important that we're very prudent in analyzing how much this will cost, and I don't think it's going to cost as much as the millions that they're suggesting it will in the threshold.

"The fourth point is to rebut the Representative from Hawaii Kai that, the program in Hawaii County is not bankrupt. It's just not meeting that \$3.4 million trigger, which I think is inflated and unreasonable. Thank you."

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

"I want to ask for a ruling on a potential conflict, Mr. Speaker. I've run in nine elections now, and once I used public funding. Thank you, Mr. Speaker," and the Chair ruled, "no conflict."

Representative Tokioka continued to speak in support of the measure with reservations, stating:

"Mr. Speaker, I'd like to stand, if there's such a thing, in opposition? In reservations, Mr. Speaker. Mr. Speaker, I think what this bill tries to do is a good thing. So a couple of points. Why just the House? We have two bodies, why just the House?"

"The other point is, with technology, if money is the issue and people feel like people are extorting money from the public to win elections, with the changes in the technology and the elections website, you can go and you can find out who people got the money from. I'm sure many of us have gotten money from people, and people look at our accounts and they ask us, 'Why did you take money from this group? Why did you take money from that group?' So that eliminates a lot of the problems with who we get the money from, whether it's fair or not."

"Another point, when I did take public money, Mr. Speaker, one of my constituents who liked me said, 'That may be a good thing, but what if I didn't like you?' What if I didn't like that candidate and public money is being spent to fund the candidate that he or she didn't like. So for those reasons, Mr. Speaker, I stand with reservations. I'm hopeful that when this goes over to the Senate, if it does, that they can include themselves in here too. Thank you, Mr. Speaker."

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

"I rise in strong support and would like permission to enter written comments as well as some brief comments. Thank you. As a politician, so to speak, from the Big Island, I have been involved in these processes on the Big Island. In one council election, the green candidate, who represented his community very well, was defeated, because developers put in an excess of over \$70,000 into a council race, which is unheard of on the Big Island. Therefore, they bought that election in my opinion."

"In the next cycle, that candidate was defeated because a young woman was able to garner the support of the community, get the 200 signatures, and I agree it's very difficult. I was one of the people helping to get signatures for her, and it was very difficult because that is an impoverished area, and even \$5 is a significant amount for that community."

"Anyway, she was able to gain the support of the community and win that election because of the public support, and without that she wouldn't have been able to run. I'd also suggest that perhaps we change the law so that individuals have to check off not to donate, rather than check to donate, and that might enhance the support for this measure. Thank you, Mr. Speaker."

Representative Creagan's written remarks are as follows:

"I would like to supplement my Floor remarks relating to HB 2533 and the necessity of public funding in order to provide equal opportunities for all candidates. I have seen firsthand the benefits of public funding with the pilot program on Hawaii Island for the County Council elections that I would like to share."

"Enclosed are tables showing the amount of money spent on campaigns for the County of Hawaii Council elections for the years preceding and following the start of the pilot program."

2006

Office	District	County	Last Name	First Name	Party	Election Period	Won	Receipts	Disbursements
COUNCIL	01	HAWAII	HOLSCHUH	FRED	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$2,730.70	\$5,466.70
COUNCIL	01	HAWAII	YAGONG	DOMINIC	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$13,695.00	\$13,148.08
COUNCIL	02	HAWAII	IKEDA	DONALD	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$39,330.61	\$28,717.32
COUNCIL	03	HAWAII	HELFRICH	PAULA	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$21,259.42	\$21,259.42
COUNCIL	03	HAWAII	YOSHIMOTO	J	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$35,967.72	\$34,716.57
COUNCIL	04	HAWAII	AVERY	JUSTIN	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$2,195.00	\$2,116.99
COUNCIL	04	HAWAII	HIGA	STACY-STAN	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$80,131.52	\$59,605.21
COUNCIL	04	HAWAII	KAHEUAEA	WENDELL	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$0.00	\$0.00
COUNCIL	05	HAWAII	EVANS	ROGER	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$0.00	\$0.00
COUNCIL	05	HAWAII	NAEOLE	EMILY	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$21,264.63	\$20,851.68
COUNCIL	05	HAWAII	RUDERMAN	RUSSELL	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$4,260.00	\$4,260.00
COUNCIL	05	HAWAII	SAFARIK	GARY	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$43,390.26	\$34,010.68
COUNCIL	05	HAWAII	STOCKSDALE	S. KANIU	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$3,435.00	\$2,807.68
COUNCIL	06	HAWAII	HOLLEMAN	GERALD	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$5,236.00	\$6,425.60
COUNCIL	06	HAWAII	JACOBSON	BOB	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$12,730.44	\$12,402.39
COUNCIL	07	HAWAII	BASQUE	DAVID	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$3,000.00	\$2,098.09
COUNCIL	07	HAWAII	ISBELL	BRENDA	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$26,292.73	\$19,233.46
COUNCIL	07	HAWAII	KIHOI	LEI	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$7,142.61	\$6,511.82
COUNCIL	08	HAWAII	PILAGO	KAHIKAPIKA	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$26,800.52	\$29,469.20
COUNCIL	08	HAWAII	ELARIONOFF	LENINGRAD	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$3,293.00	\$2,159.22
COUNCIL	09	HAWAII	HOFFMANN	PETER	NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$11,903.76	\$12,908.36
COUNCIL	09	HAWAII	THOMASON	CHRISTOPHER	NON-PARTISAN	11/03/2004 - 11/07/2006	Y	\$20,797.09	\$20,152.44
COUNCIL	09	HAWAII			NON-PARTISAN	11/03/2004 - 11/07/2006	N	\$2,567.04	\$2,266.65
Total (23 Candidates)								\$387,360.05	\$340,606.36

"During the 2006 election and in years prior, the amount spent on Council elections was generally very small. For example, for District 6 Gerald Holleman raised \$5,236 (spending \$6,425), and Bob Jacobson raised \$12,730 (spending \$12,402) in 2006. Bob Jacobson won this election."

[Note: This space intentionally left blank.]

2008

Office	District	County	Last Name	First Name	Party	Election Period	Won	Receipts	Disbursements
COUNCIL	01	HAWAII	BROOKMAN	THOMAS	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$3,205.00	\$3,094.16
COUNCIL	01	HAWAII	YAGONG	DOMINIC	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$4,525.00	\$4,214.89
COUNCIL	02	HAWAII	FERRERA	ALBERT	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$0.00	\$0.00
COUNCIL	02	HAWAII	IKEDA	DONALD	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$21,099.92	\$29,358.44
COUNCIL	03	HAWAII	REED	ROBERT	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$25.00	\$25.00
COUNCIL	03	HAWAII	YOSHIMOTO	J	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$17,525.00	\$17,643.14
COUNCIL	04	HAWAII	HENG	JET	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$7,198.22	\$7,118.21
COUNCIL	04	HAWAII	KAHUAEA	WENDELL	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$110.09	\$110.09
COUNCIL	04	HAWAII	OKUTSU	MARIE	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$0.00	\$453.16
COUNCIL	04	HAWAII	ONISHI	DENNIS	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$46,720.37	\$43,640.40
COUNCIL	05	HAWAII	BAGLIG	ANDY	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$21,256.88	\$20,940.00
COUNCIL	05	HAWAII	GUMAPAC	KALE	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$13,671.20	\$13,671.20
COUNCIL	05	HAWAII	JOSEPH	WAYNE	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$13,580.50	\$13,618.97
COUNCIL	05	HAWAII	NAEOLE	EMILY	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$18,877.70	\$15,694.13
COUNCIL	05	HAWAII	SAFARIK	GARY	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$20,485.70	\$18,964.00
COUNCIL	06	HAWAII	STOCKSDALE	S. KANIU	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$5,249.45	\$2,742.48
COUNCIL	06	HAWAII	ENRIQUES	GUY	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$93,176.22	\$81,705.12
COUNCIL	06	HAWAII	FOGEL	FREDERICK	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$0.00	\$171.90
COUNCIL	06	HAWAII	JACOBSON	ROBERT	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$26,098.60	\$23,709.64
COUNCIL	07	HAWAII	DELO SANTOS	CATHERINE	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$24,377.00	\$20,627.43
COUNCIL	07	HAWAII	FORD	BRENDA	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$27,558.00	\$33,501.43
COUNCIL	07	HAWAII	TEXEIRA	STEVEN	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$844.13	\$844.13
COUNCIL	08	HAWAII	GREENWELL	ROBERT	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$0.00	\$0.00
COUNCIL	08	HAWAII	HECHT	DEBBIE	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$13,278.00	\$11,505.83
COUNCIL	08	HAWAII	REYNOLDS	JOSEPH	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$16,923.07	\$16,923.07
COUNCIL	08	HAWAII	YOUNG	TSING	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$3,600.00	\$3,750.00
COUNCIL	09	HAWAII	HOFFMANN	PETER	NON-PARTISAN	11/08/2006 - 11/04/2008	Y	\$14,357.00	\$12,492.35
COUNCIL	09	HAWAII	TORRES	RAYNARD	NON-PARTISAN	11/08/2006 - 11/04/2008	N	\$3,891.00	\$3,341.67
								Total (28 Candidates)	\$417,633.05
									\$399,860.84

"In 2008, there was a great surge of interest in sugarcane land in Ka'u, as a number of large parcels of land were sold and intended for development. The 2008 Council elections were thus quite different than years prior because development companies involved in these projects began providing campaign donations to the candidates whom they supported. Newcomer Guy Enriques received a great share of support from these companies, and eventually raised \$93,176 for the 2008 election (spending \$81,705). The incumbent Bob Jacobson raised \$26,098 (spending \$23,709). Guy Enriques won this election.

2010

Candidate Name	District	Primary Base	Primary Equalizing	General Base	General Equalizing	Election Total
Enriques, Guy	6	\$37,795.00	\$0	\$455.00	\$0	\$38,250.00
Hoffman, Peter	9	\$13,306.00	\$0	\$0	\$0	\$13,306.00
Ikeda, Donald	2	\$14,917.00	\$0	\$0	\$0	\$14,917.00
Lively, Barbara	5	\$9,817.63	\$0	\$0	\$0	\$9,817.63
Naoele-Beason, Emily	5	\$9,826.00	\$0	\$6,619.00	\$0	\$16,445.00
Smart, Brittany	6	\$37,795.00	\$0	\$455.00	\$0	\$38,250.00
Weatherford, James	5	\$9,826.00	\$0	\$0	\$0	\$9,826.00
Yoshimoto, J	3	\$6,904.80	\$0	\$0	\$0	\$6,904.80

"In 2010, the campaign financing pilot project was set up and the amount of money available to a candidate was a percentage of the amount spent by the winning candidate in the previous election. As the incumbent for District 6 had raised \$93,176 in 2008, the candidates whom accepted public money for that seat were allotted a generous \$37,765. Both the incumbent, Guy Enriques, and his new challenger, Brittany Smart, elected to use the publicly awarded funds.

"Many prominent individuals had confirmed their support for Guy Enriques, including the County of Hawaii Mayor, various unions, and bureaus. However, it seemed that many residents were not satisfied with his performance and were thus looking for an alternate candidate. Using

the publically financed funds, the 26 year old *malihini* challenger Brittany Smart was able to finance the various campaign collateral and public outreach events that she perhaps otherwise could not afford to do. She eventually defeated the incumbent, Guy Enriques, by 20 percentage points.

"It would have been almost impossible for a newcomer to take on such an incumbent except for the public campaign funding. I am thus in strong support of HB 2533 because I have seen firsthand how these funds can even the playing field and ensure that the character, positions, and ideas of our local candidates remain at the forefront of our elections."

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

"Thank you, Mr. Speaker. I rise with some reservations. I note that on page 10 of the bill, it's talking about qualifying as a candidate to get these public funds. And it says, 'qualifying contributions were received from registered voters in the district from which the candidate seeks office, that the candidate resides in the district from which election is sought as of the date of the filing of nomination papers, and that the candidate is a registered voter in the district from which election is sought.'

"My concern is, I do believe that there is a residency requirement for us when we're filing for candidacy, which does not apply in this instance for people seeking these public funds. So I believe there is an inconsistency. I'd like to see that corrected.

"The other thing is, I agree with the Representative from Kauai as, why wouldn't you put the Senate in here? Why is it just for the House? I think it should be the House and the Senate.

"Lastly, I know when this came up, Hawaii County was the pilot area. One of the concerns that several of us had in those days was, what happens when the money runs out, and so is it a horse race? Is it the ones that get to the public funding first? When it maxes out there's no more money and those people are seeking their public funding, are they going to say, 'Well, there's no more money in the fund and we don't have anything to give you.'"

"The other thing that we heard is, logistically it's really difficult in terms of timing, because when they apply for their money, they want to get it quickly so that they can run their ads or send out their flyers. And if we as the Body do not support the Office of Elections and the people that cut the checks, actually, we aren't responding in a timely manner, and so that public funding does not get used the way we intended. So I wanted to point that out. Thank you."

At 11:36 o'clock a.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:37 o'clock a.m.

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

"Thank you, Mr. Speaker. In support with reservations. I'd like to also echo, why just the House? And I'd just like to note in observation, a lot of supporters of this bill both raised and spent a lot more money than I did. Just an observation."

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

"Thank you, Mr. Speaker. In support with reservations, brief comments please. Thank you. Mr. Speaker, first and foremost, I do support the intent of this bill. I think that it is well founded and I think many of the comments that were made in support of this measure are warranted. That being said, Mr. Speaker, I think it's important to note the testimony of the Campaign Spending Commission, who would be responsible and who has been responsible for implementing the program.

"First and foremost, they say in their testimony that they had very strong concerns and comments about the implementation. Also, the commission opposes the ability of certified candidates to raise supplemental contributions as currently provided in the proposed draft of the measure.

"In section 1, page 3, proposed §11-A of this bill permits a "qualifying contribution" to be made in the form of cash. The Commission, as in the past, suggests that qualifying contributions be only in the form of a personal check or money order, as provided for in the original version of this bill. We recognize that this bill attempts to allay our concern by also requiring the contributor's signature affirming and acknowledging that the contribution was made from personal funds, however, we would like to point out that it is harder to verify that a contribution came from the personal funds of the contributor when the contribution is in the form of cash.

"Proposed §11-E of this bill, beginning at page 5, allows a candidate seeking eligibility for comprehensive public funding to raise seed money to pay for expenditures necessary to determine whether the candidate has sufficient support to run for office as a publicly-funded candidate. The amount of seed money allowed to be raised is \$3,000. As currently drafted, it appears that just one individual could potentially contribute up to \$2,000 in seed money to the candidate. The Commission suggests that individuals be limited to giving \$250, in the aggregate, in seed money contributions to a candidate. This is the same contribution limit for individuals contributing seed money to participating candidates in the Pilot Comprehensive Public Funding for Elections to the Hawaii County Council.'

"So that's one of my first reasons I stand in reservations. Secondly, again, I want to echo some of the comments made, and may I please have the words of the Representatives from Waikoloa, Lihue and Waianae entered into the Journal as if they were my own? Thank you, Mr. Speaker.

"Secondly, again, we have a surplus. If we talk about this bill being democracy at its core, then why wouldn't this bill apply to the Office of the Governor and Senate elections? That is the even playing field. For every candidate who wants an opportunity to apply for any of those offices in the Legislature or in the Executive Branch, this bill should apply, particularly in the wake of the fact that we have a surplus.

"Finally, Mr. Speaker, I note that the Finance Committee did in fact agree to allow General Fund monies to go towards the elections fund to continue funding the pilot program or any type of public financing program. But this is the issue that I have, and I think this has been said previously. But many of my constituents, quite frankly, don't want their taxpayer dollars going to certain candidates who don't represent their views. So in their opinion, this is a slap in the face of democracy. So for those reasons, Mr. Speaker, I continue to support the intent of this bill, but for those reasons I stand with reservations. Thank you."

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

"*Mahalo ho'omalū 'ōlelo.* Thank you, Mr. Speaker. In strong opposition. Like my colleague from Kapolei, she's talking about seed monies. And knowing what happened on Hawaii Island, because I was following it, of the nine seats, there was a disparity in the formula of issuing out monies, because they used the cycle before.

"So, as my colleague from Kau was saying, how the young girl beat the incumbent, that is so true because he was the one that got like \$50,000 plus, almost \$100,000. And so when they based it upon that formula, the candidates that were running and needed public funding, they got \$30,000. That's more than I even raised.

"But it's not about monies to get into office, it's who you are and who you represent. And the thing is, they got the \$30,000, on top of that another \$10,000. So we had a lot of waste for these types of elections. And others got minimum \$10,000. Then on the second cycle they got maybe \$3,000, if they were lucky. So all of these nine seats, the formula was so off. And I did voice my opinions about it when people asked me about public funding, and I told them, 'Yeah it's a good thing, but the formula does not fit, because the way they used it was so *hewa*, was so wrong.' As

my *kūpuna* would say, *mai 'uha'uha ka kala.* Don't be wasteful of our monies. *Mahalo.*"

Representative Oshiro rose, stating:

"Thank you, Mr. Speaker. I have a point of inquiry. Section 10 of the bill, there's a blank appropriation. I think to help me decide on how I'll vote on this current draft, and it's the effective date of July 1, 2030, I would need to know if the author or the proponents of it could share with me or the Body, what the possible range of revenues from the General Fund may be contained in the final draft.

"So I guess the question would be whether the proponents of this bill or the subject-matter chairs who had the chance to study this measure and hear from the respective parties, proponents, Campaign Spending Commission, could give this individual Member of this Body some idea of the General Fund expenditure, should this bill finally come before us in a final form. So the inquiry that I would make at this time, if the chairs would yield to a question on the amount of money that might be appropriated to effectuate the current draft, limiting the public financing of elections to the State House of Representatives."

At 11:45 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:46 o'clock a.m.

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

"Thank you, Mr. Speaker. I want to thank the subject-matter chairs for providing me some information. There will be the possibility of some General Fund expenditures on this, but given the great debate we've had on this measure, I think at this point in time, Mr. Speaker, insofar as this is a draft effective July 1, 2030, I think I'll be voting against this bill. I'll be voting no. Thank you."

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

"I also think I need to declare a potential conflict. In 2008, my first time I ran under the public campaign spending limits. Thank you," and the Chair ruled, "no conflict."

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

Representative Wooley's written remarks are as follows:

"We must do some things different if we want our government to work better. The amount of money spent every two years on each state House race adds up to big, corporate influence. Money is everywhere here at the Capitol and raising it is critical to run for office. That will not change, but we should keep trying to find ways to keep the amounts spent reasonable and ensure that the money supporting candidates is not dominated by large, corporate interests. If we allow big corporate money to dictate the winners and losers in our Legislature, then we have given up on democracy. This bill itself and the idea of public funding are not easy, perfect, or intuitive, but public funding is the only alternative path we have on the table and I think we owe it to the public to give it a try."

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

"Mr. Speaker, same, I need to disclose a potential conflict of interest. Several years ago, I did take advantage of the voluntary campaign spending compliance, and therein I was able to use some public monies for my re-election," and the Chair ruled, "no conflict."

Representative Oshiro continued in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I am opposed to this bill. There are three reasons why I cannot support this bill in its present form:

I. Cost

"According to the Campaign Spending Commission:

"Proposed §11-H, beginning on page 10 of the bill, increases dramatically the maximum amount of public funds available to candidates for seats in the House of Representatives. Using expenditure data from the 2012 election, the maximum amount of public funds available for a candidate for the House, will be \$32,598.38. Assuming all fifty-one House districts have one candidate receiving public funding under this proposed amendment, the maximum amount of public funding available will be \$1,662,517.30. Assuming all fifty-one House districts have two candidates receiving public funding under this proposed amendment, the maximum amount of public funding available will be \$3,325,034.60. Considering that the balance of the Hawaii Election Campaign Fund was \$2,810,057.69 as of December 31, 2013, the proposed amendments will require an appropriation from the Legislature in 2015 to the Hawaii Election Campaign Fund to pay for the anticipated dramatic increase in public funding for certified candidates to the House in 2016, should this measure pass. To be on the safe side, when deciding on the amount of the appropriation, this committee should assume that there will be at least one candidate seeking public funds under this measure in each of the 51 state House districts."

"While I recognize that the draft before us contains an unspecified appropriation of General Funds for this purpose, I am concerned that because the state would have no way of knowing with any certainty the number of candidates that might run in a future election and seek public funds, there is no way to accurately plan and budget for this purpose. Do we set up a system of 'first in time, first in line' whereby merely being first to file, provides a public funded benefit against all others? What happens with the notions of equality and fairness?"

II. Fairness

"If we as a Body are intent to support the concept of publicly funded elections, why stop at the House of Representatives? Why not apply these same rules and opportunities for ALL statewide offices, to wit, the Office of the Governor, the Office of the Lieutenant Governor, the Office of State Senate, and the Office of Trustee of the Office of Hawaiian Affairs?"

"By applying these new rules and opportunities just to the Office of State Representatives, we give the appearance that House races will be more 'open' and transparent compared to the other races. But in truth, it will give incumbents in the House of Representative a distinct advantage compared to newcomers.

"Incumbents are already established. They have contacts, mailing lists, franking privileges, and established ways of getting their names out in the community. Incumbents will have a distinct advantage in soliciting the numerous contributions needed to qualify for public funding. As such, this bill could conceivably turn the Hawaii Elections Campaign Fund into a 'slush' fund for incumbents, providing them with another tool to use in staying in their seats. Already we have the ability to use our \$12,753.00 in Office Allowances to send out flyers, post cards, meeting cards, up-date cards, and an assortment of other communications to our constituents. How many challengers have that kind of public funded means to communicate with voters?"

"In comparison, the newcomer to politics will have to rely on personal funds or private donations because of the difficulty in obtaining the necessary qualifying contributions to obtain public funds.

"And if it is the will of the House Leadership and Coalition to protect incumbents as a matter of public policy, why stop at just this House? Why not extend the same protections to the Governor, the Lieutenant Governor, our Senators, and our Trustees of the Office of Hawaiian Affairs?"

III. Appropriateness

"Lastly, why should public funds be used to support candidates who are not supported by taxpayers? Many of my constituents have complained that a bill like this is offensive to them because they don't want their hard-earned tax money going to support candidates who they do not want elected. Imagine explaining to a constituent that a member of Westboro Baptist Church has become a candidate for state office using tax dollars that could have paid for medicines for the elderly or poor? How about defending the use of over \$30,000 from the General Fund to a campaign for a member of the American Nazi Party?"

"They have a very good point. By establishing a publicly funded system as proposed in this bill, constituents are placed into the 'no win' situation of having their tax money supporting one or more candidates. If the constituent doesn't support that candidate or candidates, he or she will have a more difficult time supporting the candidate he or she truly wants. If the desired candidate is not a publicly funded candidate, he or she would have to give private donations to that candidate, the amount of which would arguably be cancelled by the amount of their tax dollars used to support the unwanted candidate. If the wanted candidate is a publicly funded candidate, the constituent would have to find some other way of providing support since the publicly funded candidate would not be able to accept private donations.

"And this is the crux of the problem identified by the United States Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 (1976), and *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) – that the expenditure of money is a form of political speech that cannot be restricted.

"In the words of Justices Brennan, Stewart, and Powell, in *Buckley*:

". . . the concept that government may restrict the speech of some [in] order to enhance the relative voice of others is wholly foreign to the First Amendment. . ."

"Personally, I don't like *Buckley* nor *Citizens United*. These rulings ensure that those with money will have greater influence in politics. But *Buckley* and *Citizens United* are the law of the land, and until the federal Constitution is amended or the United States Supreme Court overrules those previous decisions, efforts such as those contained in this bill merely muddles our statutes, drains our limited resources, confuses the public, and makes it easier for incumbents to remain in office.

"Finally, the effective date of this bill is July 1, 2030, and referred to as a 'defective effective date'. Consequently, this bill is not in its final form and may still be amended to address concerns raised by the Campaign Spending Commission, myself, and others. Until such time, my opposition remains.

"For these reasons, I oppose this bill."

Representative Saiki rose, stating

"Mr. Speaker, I call for the question on page 10, but please permit Members to insert written comments. Thank you."

At this time, Representative Saiki called for the previous question.

Representative Takai rose, stating:

"Mr. Speaker, question. Do we have to stand up if any of us were partaking in public financing over the past whatever years? I need a ruling on a potential conflict. I'm the recipient of public financing, maybe about, 10, 15, 20 years ago. I did partake in the program."

The Chair then stated:

"I'm going to rule that it's not a conflict, if anyone has taken public contribution. Thank you for the disclosure, no conflict."

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

Representative Creagan rose to respond, stating:

"I rise a second time in strong support for this measure. I really appreciate the comments of my colleague from Puna about the expense of the elections. However, in terms of the amount spent, the reason that the candidate from Kau, the young woman in question, received so much money is because there was so much money spent by the developers in the previous cycle. If she hadn't received that amount, the developers again could have swamped out even the public contribution by contributing what they did before, which was twice the amount she received. Thank you."

Representative Awana rose in support of the measure with reservations and asked that the remarks of Representatives Evans, Tokioka and Har be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise today with reservations to HB 2533, HD2. Public funding of candidates makes elections more about the candidate and issues, and less about how much money the candidate is able to raise. As someone who receives a majority of donations from individual donations, I am supportive of legislation that would give all candidates a level playing field, compared to a candidate with large corporation donations. I am concerned about the cost associated with this fund. Funds raised by the income tax check-off have dwindled, and this bill would increase the work of the Campaign Spending Commission.

"Furthermore, I am also concerned that taxpayers may find this an inappropriate use of their funds, particularly if they disagree with the candidates they are funding. For these reasons, while I am supportive of continuing the discussion on this legislation, I am currently voting yes with reservations. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2533, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCE," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fale, Hanohano, McDermott and Oshiro voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 788-14) recommending that H.B. No. 748, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 748, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO AUTHORIZE THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST AGRICULTURAL ENTERPRISES," passed Third Reading by a vote of 51 ayes.

At 11:51 o'clock a.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2361, HD 2
S.B. No. 60, SD 1, HD 1
H.B. No. 1651, HD 1

H.B. No. 2231, HD 2
H.B. No. 2533, HD 2
H.B. No. 748, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 790-14) recommending that H.B. No. 1988, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1988, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of HB 1988, HD 2. The purpose of this measure is to improve access to nutritious foods in public educational institutions and develop the agricultural workforce for the benefit of local farmers and consumers through the establishment of Hawaii Farm to School Program within the Department of Agriculture and the appropriation of funds for a Farm to School coordinator position.

"HB 1988 has the potential to provide important support and communication on the education side, as well as coordination and access on the food sourcing side. Not only will it educate and empower our state's youth to make healthy choices that will stick with them for a lifetime, but it will increase the amount of locally-grown fruits and vegetables that are procured within the state.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote yes on HB 1988. Thank you."

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

"Mr. Speaker, in support. Mr. Speaker, this bill helps us address a couple of things. This is something that I think will be outstanding for our community, especially for our schools, because we need to remove barriers to ingenuity, Mr. Speaker. This allows us a greater amount of flexibility to address a pressing issue in regards to farms to school. Including programs like this, we have an opportunity to make a difference in the way our children experience and learn about farming.

"As a Representative of a rural community, Mr. Speaker, this is something that's very important. We're proud to have programs in my rural community like the Kokua Foundation that has invested time and resources into taking agriculture programs into our schools. I believe again, we have an obligation to support these initiatives by making sure we pass rules and regulations that facilitate and cultivate the perpetuation of farming in our schools, Mr. Speaker.

"Unfortunately, not all the children these days have the opportunity, like I did, where farming was the way you sustained your life and the way your family actually put food on the table. It's something now that kids actually have to learn, and they don't necessarily live. I think this is an opportunity to allow that experience, Mr. Speaker, that really allows a connection between the future generations and the earth that we live on. For those reasons, I am in very strong support, Mr. Speaker."

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

"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. 1988, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 791-14) recommending that H.B. No. 1929, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1929, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I'll be voting with reservations on this measure. Basically, this sums up my concern. We talk about farmers' markets, and I do frequent them both in Mililani and at Kakaako at the Ward Shopping Center. But when the definition is broken down regarding farmers' markets, the only requirement is that the market be outdoors and have independent businesses selling Hawaii grown, Hawaii value-added products.

"I think the intention is good to support farmers' markets statewide. I do purchase whatever, whenever I can, produce from the farmers' markets, because they tend to be independent, small business persons. But the concern I have is basically as raised in the Department of Taxation's testimony on maybe an inadequate, defined definition of what we call a farmers' market. It could be so broadly construed that there would really be no way for us to control what is meant by the produce or the products being sold there.

"I think the second concern Department of Taxation raises for us is that the, quote, 'value-added products is not defined. If this exemption is intended to limit qualifying products by location of manufacture or production in Hawaii, even if not explicitly stated,' I think that is the intention, 'there is a high likelihood that the limitation would violate the Commerce Clause.'

"The third point the department raises is that 'broadening the tax incentive to any outdoor market selling produce or value-added products will make it extremely difficult for the Department to enforce the proper claiming of the exemption.'

"I for one have been trying to support our own local farmers' market in Wahiawa for several years. And given the rules and regulations of compliance, essentially we had to take it from maybe a public place, at the State of Hawaii's Civic Center in Wahiawa, to a private location at the Wahiawa Hongwanji parking lot.

"Finally, the Department notes that the effective date will allow this exemption to be applied retroactively. Thus, any taxpayers who have already filed a periodic return and made payment would be due a refund through filing an amended return.'

"Those are my concerns, and I flagged them just for the sake of the Members and further discussion on this measure. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support with written comments. I just want to make a couple brief comments based on that last speaker. The Committee on Finance did change the language, and the effective date is 2030.

"I also just want to thank the Members for finally moving forward with this concept of allowing there to be more transactions for local products, locally. I'm very excited about seeing this move forward and had a very productive meeting with Department of Taxation to talk about the possibility for this becoming a reality, so that all of our families can have better access to fresh food more easily. So it's really going to promote that. Thank you."

Representative Wooley's written remarks are as follows:

"This bill would be so great for so many reasons. First, we can promote business transactions at farmers' markets by exempting locally grown produce from the GE Tax. This will promote the sale, growing, and eating of more local food."

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

"Thank you, Mr. Speaker. In support with reservations, with brief comments. I'd just like to make it known that I patronize our farmers' markets. I believe they serve a very important role in our community, and therefore I will support it and will continue to support it no matter which way this bill goes.

"Unfortunately, there's some concerns or reservations that I have in regards to the testimony that came from the Department of Agriculture, as they were concerned as well about the enforcement entity. Enforcement of this bill would burden the farmers and vendors at the farmers' markets with having to determine where the purchased produce would be consumed.

"In addition, with testimony from the Attorney General's office, the bill may be challenged as violating the Commerce Clause of the United States Constitution, because it could be found to discriminate against interstate commerce. However, I realize that there is a defective date on this bill, and it is my hope that we'll be able to address many of these issues as it moves over to the Senate. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support with reservations, some brief comments. I'd like to thank the introducer of this measure, because I truly appreciate these concepts. I do recognize the defective date, and I look forward to hearing this discussion moving forward, especially in the Senate.

"My challenge is, how are we going to implement this? You've heard it from several other previous speakers, and I think hopefully as we move forward, we can kind of resolve some of those issues.

"The challenge is, about a half an hour ago, we were complaining about what was fair in the marketplace, versus internet and local businesses. I can take that same concept with this measure, too. When I have what I deem a farmers' market, which is an open-style market on a piece of land or maybe even in a structure, that people come periodically to sell their goods or wares. I don't think that's the legal definition, but that's kind of what I think it is.

"Now, we're going to be providing an exemption to individuals that sell their product, which is a produce, from taxation. What am I supposed to tell my brick and mortars? What am I supposed to tell my wholesale food guys that's selling my organic produce? I understand this is a measure to support our farm industry, which I do wholeheartedly. And that's why I put a farmers' market in my community, with my community center and the Hawaii Farm Bureau, almost eight years ago, and then fought very hard to take EBT at those open markets, which they don't pay any General Excise Tax on, as long as it's food.

"So, Mr. Speaker, as we move forward, I hope we can kind of tighten this up and get it to where it's a workable measure. Currently, I don't see it's workable, that's why I'm standing here with reservations, but I really like the concept and see how we can go forward with this. Thank you very much, Mr. Speaker."

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

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

"Thank you, I apologize for taking more of the time of this Body. But, I rise in strong support of this measure. As the president of Naalehu Main Street, we helped found the Naalehu Farmers Market, and that's provided a lot of fresh food to the community.

"A lot of the people there probably wouldn't come if they really had to collect excise tax. It's difficult to compute and collect, and it provides, relatively, a burden on something that many people who participate in the farmers' market, not to make money really, but to support the community. I mean, it costs more money to do it than the money you make. So, I think removing this additional small burden helps.

"In addition, I think that this concept should be extended to roadside fruit stands and vegetable stands to support that aspect of the farming community. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. I just would like to say a few comments. I understand the concern of the other people as far as not collecting taxes, and I did mention earlier that I would like us to collect taxes because of the unfunded mandate. But I'm looking at it in a different perspective, whereby there's only, the people that go and sell at open markets, and I know a few of them, are very simple people. And to add this burden of paperwork and reporting would be a little too much for them to handle. So, I would like those people who have reservations to consider that, and I think there's enough discussion in this Body, and I call for the question, Mr. Speaker."

At this time, Representative Cabanilla called for the previous question.

Representative Har rose in support of the measure with reservations and asked that the remarks of Representatives Oshiro, Awana and Jordan be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1929, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FARMERS MARKETS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 792-14) recommending that H.B. No. 1991, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1991, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 793-14) recommending that H.B. No. 2178, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2178, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I need to declare a potential conflict of interest on Standing Committee Report Number 793, relating to livestock feed grants," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2178, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 794-14) recommending that H.B. No. 1070, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1070, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE

UNIVERSITY OF HAWAII," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 795-14) recommending that H.B. No. 1545, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1545, HD 2, entitled: "A BILL FOR AN ACT RELATING TO POST-SECONDARY EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 797-14) recommending that H.B. No. 1974, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1974, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION MEDICAL FEE SCHEDULE," passed Third Reading by a vote of 51 ayes.

At 12:03 o'clock p.m., Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:04 o'clock p.m.

At 12:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1988, HD 2
H.B. No. 1929, HD 2
H.B. No. 1991, HD 2
H.B. No. 2178, HD 2
H.B. No. 1070, HD 2
H.B. No. 1545, HD 2
H.B. No. 1974, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 800-14) recommending that H.B. No. 1977, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1977, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 803-14) recommending that H.B. No. 1894, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1894, HD 2, entitled: "A BILL FOR AN ACT RELATING TO A CAR-SHARING VEHICLE SURCHARGE TAX," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 804-14) recommending that H.B. No. 1702, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1702, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1702, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL INFRASTRUCTURE TAX CREDIT," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 806-14) recommending that H.B. No. 1564, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1564, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Small reservations, in support with small reservations. Thank you. The County of Kauai has maintained the Veterans Cemetery for as long as I can remember. From the 1980's, I was the employee responsible for making sure the cemetery got the supplies and equipment it needed. I filed the necessary state and federal reports, but was never aware of policies that were needed to keep the cemetery up to a certain standard.

"Throughout the years, our Veterans Cemetery has gone in the direction of looking like any other public cemetery, and currently does not look like a uniformed military cemetery. I know that converting back to standards is necessary, but I hope that the public will be notified of these changes before they happen. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1564, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 808-14) recommending that H.B. No. 2242, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2242, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 51 ayes.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 809-14) recommending that H.B. No. 1830, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1830, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I please request a ruling on a potential conflict? In my private sector life as an attorney, I practice real estate law. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1830, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE APPRAISERS," passed Third Reading by a vote of 51 ayes.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 810-14) recommending that H.B. No. 2459, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2459, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2459, HD 2, entitled: "A BILL

FOR AN ACT RELATING TO DENTISTRY," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Hanohano and McDermott voting no.

At 12:11 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1977, HD 2
 H.B. No. 1894, HD 2
 H.B. No. 1702, HD 2
 H.B. No. 1564, HD 1
 H.B. No. 2242, HD 1
 H.B. No. 1830, HD 2
 H.B. No. 2459, HD 2

At 12:11 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:11 o'clock p.m.

Representative McKelvey, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 815-14) recommending that H.B. No. 2252 pass Third Reading.

Representative Saiki moved that notwithstanding the recommendations contained in Standing Committee Report No. 815-14, that H.B. No. 2252 be recommitted to the Committee on Consumer Protection & Commerce, seconded by Representative Cabanilla.

The motion was put to vote by the Chair and carried, and H.B. No. 2252, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATION OF GAS TANKLESS WATER HEATERS," was recommitted to the Committee on Consumer Protection & Commerce, with Representatives McKelvey and Say being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 813-14) recommending that H.B. No. 2142 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2142, entitled: "A BILL FOR AN ACT RELATING TO POST-SECONDARY EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 814-14) recommending that H.B. No. 2002 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2002 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? At my law firm I am a land use attorney. Thank you," and the Chair ruled, "no conflict."

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

"Mahalo ho'omalu 'ōlelo. Thank you, Mr. Speaker. *Kako'o 'ole*. In opposition. *He pila hewa kēia*. This is a wrongful bill. *'Aohe i 'o i loko ka pila*. There is no essence in this bill. *'O kēia pila e ho'ohana na po'e i loko ke ke'ena pala pala 'aina*. This bill created more work for the employees of the Bureau of Conveyances. *Na wai e ho a'o kēia hana*. Who is going to be doing the training? *Aia i hea ke kala e pili ana kēia hana*. And where is the money coming from? *Mahalo*."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2002, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 817-14) recommending that H.B. No. 1938 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1938, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 819-14) recommending that H.B. No. 2482, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2482, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? At my law firm I represent AOAOs and condominium owners. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2482, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 820-14) recommending that H.B. No. 1975, HD 1 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1975, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR STATE AND COUNTY EMPLOYEES," passed Third Reading by a vote of 51 ayes.

At 12:15 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2142
 H.B. No. 2002
 H.B. No. 1938
 H.B. No. 2482, HD 1
 H.B. No. 1975, HD 1

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 826-14) recommending that H.B. No. 2183, as amended in HD 1, pass Third Reading.

Representative Saiki moved that notwithstanding the recommendations contained in Standing Committee Report No. 826-14, that H.B. No. 2183, HD 1 be recommitted to the Committee on Judiciary, seconded by Representative Cabanilla.

The motion was put to vote by the Chair and carried, and H.B. No. 2183, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," was recommitted to the Committee on Judiciary.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 821-14) recommending that H.B. No. 1907, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1907, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise with reservations. My reservations come from information in this bill which needs to address those veterans who are mentally disabled, those who have experienced trauma from being in war or under traumatic circumstances and it is naïve to believe that all veterans have had experience with equipment used for hunting. Although I strongly support our veterans and for those veterans with the mental ability and skills to hunt, my reservations come for those who do not. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1907, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING LICENSES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Hanohano voting no, and with Representative Creagan being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 822-14) recommending that H.B. No. 2577, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2577, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, please note my strong reservations. A brief comment. I think we should be allowing the director to use their ability to create administrative rules at this point in time. I know what this measure means, but I think we should allow that process to go forward. And if that isn't workable, then maybe they should come before the Legislature to make these types of decisions. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm going to be voting against this measure. I've been watching this for a while. I sat on the subject matter committee. The Executive Director of the Hawaii Public Housing Authority did come to testify. And that's where I learned that there's actually rules being promulgated. They got the approval from the Attorney General's Office and the Governor's Office for public comment and consideration. I think they're moving ahead with some kind of smoking ban in the public housing units right now. This is a statutory prohibition, and for violation of this provision, one might be evicted from their tenancy.

"I have concerns, and the actual ones that I know of right now is that I have a public housing project in Wahiawa, the lower side of Wahiawa. According to one of the agents of the Hawaii Public Housing Authority, they have no area that would be designated as a designated smoking area, whereby residents of the public housing project would be able to smoke their cigarettes.

"That means that for those residents who live there, they would be either faced with a choice of not smoking on the property or removing themselves from the property. If you know where this area is on the lower side of Wahiawa, back of Palm Street, I don't think that's an area that you might want to be outside to do this, to enjoy your tobacco products.

"It's for that reason I think this is unnecessary. I think the current rules moving forward through the current channels are appropriate to address this smoking ban in public housing units. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, I rise in opposition to this measure. Is smoking legal or illegal? It's legal. This is the nanny state reaching out to touch these poor folks who don't have many things in life, and maybe perhaps one of the things they enjoy is this vice. And the law is almost unenforceable. I can just hear the 911 call on a Saturday night, 'Officer, please, we have someone smoking an unfiltered Marlboro in Room 202. Please send help quick.' So, I'm going to be voting no on this. Thank you."

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

"Thank you. I rise in support with some reservations. We had a great speech from the former Majority Leader, from Wahiawa. This law says, 'The authority may designate one or more areas within the housing project where smoking is allowed.' I believe it should say, 'The authority shall designate where smoking is allowed.' And I have gone on record here that I believed at the airports, when we eliminated smoking, that they should've allowed designated areas at the airports. So, I'm very consistent that they 'shall'. So, that's why I'm with reservations. Thank you."

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

"Mr. Speaker, in support. Just a couple of quick notes. First of all, the Hawaii Public Housing Authority does not oppose this bill despite the fact that they are moving forward with rules. The other point I would make is that secondhand smoke is a known human carcinogen for the majority of people who live in public housing complexes who are not smokers and share the ventilation system with smokers. This is, literally, a life and death matter. Even if you don't get lung cancer and die, there's a number of other diseases you can get. Not because you decided to smoke, but because your next door neighbor decided to smoke.

"So this bill does not eliminate smoking entirely. There is a possibility if the HPHA so designates, they can put in designated areas where people can smoke, or you can smoke off premises if the complex is small enough that you can get to the street without too much difficulty.

"But, it's for residents of public housing who this is usually a housing choice of last resort. There's not many other options when you're talking about the income levels that are eligible to live in our public housing. It simply isn't fair to them to have to risk their life to have a place to stay. Thank you."

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

"I rise in support with reservations. It might be surprising that a physician would have reservations about a bill like this. However, I think we must remember that our society and our government permitted tobacco companies to poison and addict millions of our fellow constituents. At this point now, we realize that we were wrong. But we were wrong, and we did these things. We allowed these companies to poison our fellow citizens, and addict them.

"So now they're addicted. And many of these people also have mental health issues. And this bill could evict them from housing and make them homeless, as well as punish them even further. So, I have reservations and I think that the Public Housing Authority should consider having places or sub-units, perhaps, that did not share ventilation with other units that would be reserved for people who are irrevocably addicted to smoking. Thank you."

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

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

"Thank you, Mr. Speaker. With reservations. I'd just like to note that if anybody has witnessed somebody going through nicotine withdrawals, they become very edgy. I fear that a bill like this could increase violence in some of these areas. Reservations."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I would just note that oftentimes we as a Legislature have to take a stand and put into statute what we believe is policy. This administration has dragged its feet for three years. I would also note that in 2012, we passed this measure, a very similar measure, overwhelmingly with no one voting no. So, it's quite surprising to me that there is a change of votes on this particular issue. Thank you, Mr. Speaker."

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

Representative Oshiro rose to respond, stating:

"Mr. Speaker, still in opposition. I think maybe back in 2012 I wasn't educated on the effect of it to my constituents, and I think whereas today I am. I think secondly, more importantly, there are currently rules being promulgated to address this current evil that we're trying to address in this measure."

"Third, Mr. Speaker, I'd like to have the record reflect the comments of the gentleman and my colleague, the doctor from the neighbor island. Except for the comment about the mental health condition of some of the residents. I think his point is well taken, because tobacco is one of those legal products that we allow to be consumed, and we promote it to some degree because we are addicted to the revenues that tobacco generates. We use it for all kinds of services and programs. And I think that's not germane, so I'll sit down right now. But just, thank you very much."

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

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

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

"Thank you, Mr. Speaker. Reservations and just a few comments. It's just my concern that if in some public housing facilities, for example Mayor Wright Housing where it's very condensed, they may not meet that threshold of 25 feet from the open space area. My fear is that residents will then go into the neighborhoods across the street and start smoking in front of the homes, and then we create another problem there. That's my reservation. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2577, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Hanohano, McDermott and Oshiro voting no, and with Representative Creagan being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 823-14) recommending that H.B. No. 1509, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1509, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, I'll be voting no on this bill. Let me just explain to my colleagues the reason why I'm doing this. I think this is a substantive change to the current law. What this act before us, in the books right now, is basically a penalty for using what they call mobile electronic devices, otherwise known as cell phones or PDAs or what have you, but primarily cell phones."

"This is the law that many of us have wrestled with for several years. I think when the current Speaker was the Transportation Chairman, we had all kinds of debates on whether or not it's a home rule issue or it's a statewide policy, but here we are right now dealing with a statewide policy."

"I think what the bill attempts to do is to change the way a citation for violating the cell phone law is processed through our current court proceedings. I think that's the case here, that it strikes some of the provisions right now that any violation that is provided in this subsection shall not be deemed to be a traffic infraction as defined in this current law. What that means for folks who may be cited for violating the cell phone law is that they'll be able to remit payment and dispose of this without attending to it personally in court."

"When I think about the policy that we put into place several years ago regarding the use of cell phones, or actually not to support the use or encourage the use, but to dissuade people from using cell phones for texting or for communicating and distracting them from driving. I think the idea was that we had made a finding that driving while using a cell phone is dangerous."

"We also found I think at that time that texting while driving, using a cell phone, is dangerous. And so, we wanted the penalty at that time to be and act as a deterrent for violators. I think that's why we set up the law at that time, so that as an infraction, one would be required to face the inconvenience, so to speak, of attending to a personal court appearance to dispose of this violation."

"I think by changing it we send a signal that the use of a cell phone while driving is no longer as dangerous as it may have been several years ago. I think that's the wrong message. I think we should be increasing the penalties for violating this law, given the information I'm learning today about the number of accidents and fatalities caused by inattentive driving based upon ones using a cell phone, either for texting or communicating on the phone. That's the reason why I'll be voting no, Mr. Speaker. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you. Before we get started, may I please have the words of the Representative from Wahiawa entered into the Journal as if they were my own. My concerns, my opposition really stems from the testimony of the Department of Transportation. Specifically, the Department of Transportation noted that this bill will delete the penalty provisions and convert the violation into a traffic infraction."

"The state receives federal highway safety grants to help deter and prevent driving behaviors that cause motor vehicle crashes and deaths. These grants are provided under Title 23 United States Code Sections 402 and 405, which are designed to change driving behavior through

enforcement, education and engineering. However, to receive these grants, the federal government mandates that the requirements must be included in the state's laws or statutes. Hawaii has just recently received notification from the National Highway Traffic Safety Administration that it does not qualify for the distracted driving grant.

"The basis for the rejection is the technical, non-substantive reading of our current law. The first item is a requirement that it impose increased fines for repeat offenders. The second item is the state's definition of 'operate' in accordance with Section 291E-1, HRS. By the federal definition, driving is defined as the operation of a motor vehicle on a public road, that includes being temporarily stationary because of traffic, a traffic light or stop sign, or otherwise, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

"So the DOT recommended certain amendments to ensure that we would not lose our federal grant. And, Mr. Speaker, it was elicited in the hearing that we're looking at about almost \$775,000 that would be a hit to our State Highway Fund. For those of us who are well versed in the State Highway Fund, we know that under federal law there's an 80-20 match, so for every dollar that the state spends on road projects through our State Highway Fund, there is an 80 percent match. Therefore, it is incumbent upon us to ensure that we have as much money in the State Highway Fund as possible.

"Given the limited resources that we have in our State Highway Fund, I have to remain in opposition to this measure as it is currently drafted, because I do not want to see any further hits to the State Highway Fund. For those reasons, Mr. Speaker, I'm in opposition. Thank you."

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

"Thank you, Mr. Speaker. I rise with reservations and would like to have the words of the speaker that spoke previously as my own. But I wanted to point out that this law would apply to county roads, as well as state roads. One of the concerns I've had is that we want our police to pull people over and obviously to cite them for an infraction, but I'd like to see a lot of these fines actually go to the counties instead of always to the state. So I'd like to see a portion of these fines, or a way to figure out how on county roads, the counties actually get the fine money instead of it going to the State Highway Fund. Thank you."

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

"In support. I did the best I could to work with the Department of Transportation to figure out exactly what they were saying that we were going to lose and why we were going to lose it, and we did not get satisfactory answers. I of course do not want to lose the state any more money. I don't want to lose the state any money, period. But I am hopeful that as the bill progresses through the process, we can work out, next committee can work out, what it is exactly that the federal government requires, and what exactly it is that we are possibly going to lose if we don't get the language correct. Thank you."

Representative Jordan rose to respond, stating:

"Mr. Speaker, thank you for the second time. I really wasn't going to speak on this, but Mr. Speaker, I might have a conflict of interest. I had a nephew that was holding his cell phone and texting and he cracked his car up. Ended up in coma for three weeks. Took him a year to rehabilitate," and the Chair ruled, "no conflict."

Representative Jordan continued, stating:

"Thank you very much. You know, when I was driving in today, I saw the lady next to me sitting on her phone like she was at home, driving her car. Okay, I'm guilty. My phone rings, I pull over and I talk on my phone. But I don't drive.

"If you're going to get cited, there should be multiple fines for the first offense, the second offense, third, or fourth. That's why I supported this the last time. I don't support one fee going forward. And yeah, take off your day from work, be inconvenienced, and go to court. That changes in this. And if people are upset about going to court and the courts getting clogged up, I am sorry, but when people use their phone like they're talking at home, and they're driving on the road, one second off that road will kill somebody. Or they choose to answer that text.

"I don't want to hear of another young mother that walks across the street and gets killed. I don't want to see that drunk driver that I just saw on Saturday evening, one second before me, go through a driver check point and then hit some other vehicle three minutes later. This is about being accountable. We should make harsh rules, not soften them. This is softening at the public outcry. How are we going to bind people's hands? We were talking about technology earlier. Yeah, technology is great. Pick it up and use it? No. Maybe we should ban them from cars all together.

"I'm going with reservations to be nice, but we shouldn't be passing this type of measure. We should be making a statement. And the statement is, if you're going to inconvenience somebody on the road, then go to court, pay your fine. And if it's the second or third time, pay more. Because it's somebody's child, somebody's wife, or the driver that gets hurt. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in strong support of this measure. As a Representative of an area whereby we are inundated by development and traffic congestion to be the worst on the island, I am in strong support of the measure whereby the \$250 goes to the State Highway Fund.

"The reason why we don't have enough highways, or this is what DOT tells me, is that we don't have enough money. We don't have enough state funds. So therefore, being that we are so congested and we are crying for more transportation initiatives, I rise in strong support of this measure. And I think there's enough discussion, Mr. Speaker, and I would like this measure to pass. I call for the question."

At this time, Representative Cabanilla called for the previous question.

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

"Reservations, Mr. Speaker. A few brief comments. Thank you. On the County Council of Kauai, I was the introducer of the bill that prohibited the use of electronic devices. And in that bill, we increased the penalties in construction and school zones, because we listed that as a priority. Last session, I believe that we created a bill that increased the penalties in those zones as well. This removes them. That's why I'm going with reservations. Thank you."

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

"Mr. Speaker, I rise in support of this measure. I'd like to just summarize the point of my comments, which is that the real issue that this Body needs to focus on, when it comes to transportation funds, is the Department of Transportation's inability to spend down over \$800 million in federal funds that have accumulated over the years for highway safety improvements. The Department of Transportation's inability to spend down these funds may result in a suspension or take-back of those funds. Thank you."

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

"Thank you, Mr. Speaker. Mr. Speaker, in support and I'll just keep it very brief. We're not just talking about the inconvenience of the infractors, because if that's what it was, then I wouldn't be in support. What we're talking about is forcing people to go to court, but it's not just forcing people, it's forcing people who are ticketing, which are the police officers. So many of these tickets get bounced because the police officers are not showing up.

"So just on a technicality, the people who are violating the law should not get off just because the police officers are not going to court. If we're making them just pay a fine, these people would have just paid the fine and admitted negligence. Otherwise, what we're doing is we're forcing them to go to court and get off the violations that they made."

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

"Mr. Speaker, standing in support. Mr. Speaker, one of the things we wanted to clarify is that some of the issues that have been reported with the current law is that when you are pulled over and given a ticket, it is basically the officer's word against the driver, as some of those passionate on the Floor have stated, that people are visibly using the phone or texting.

"However, we've heard reports of individuals who weren't, excuse me, I should be very specific, who claim that they weren't using the phone at any time, however were ticketed for having the device either near them or on their leg or in the vicinity. However, they were forced to go to court, as well as because of the current situation, they lost and had to pay a fine for what they claim as having a device in the front seat.

"One of the things also, Mr. Speaker, there's been a lot of discussion regarding the Department of Transportation using or accessing current highway funds. There's been a lot of problems associated with that. Not only at the department situation, but also the ability to get appropriate contractors to commit and also to complete the environmental assessment. However, I'll save those comments for an appropriate measure to address that.

"Mr. Speaker, there currently is a grant that's associated with this. In the past, there have been no guarantees that this grant will continue and how long that grant will continue. However, Mr. Speaker, with the current increase in this measure of \$250 minimum fine, those potential federal fund matchings that may not be continued on this type of measure going forward could be associated with the fines that tickets would produce. Thank you."

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this bill.

"The bill, as received by this Body, would make it an INFRACTION to use a mobile device while operating a motor vehicle, and require the deposit of fines into the State Highway Fund. I oppose changing the offense from a violation to an infraction and the transfer of the fines collected to the State Highway Fund.

"I'd like to remind my colleagues that just last year, this Body approved House Bill No. 980, Senate Draft 2, which made the use of a mobile device while operating a motor vehicle a VIOLATION. House Bill No. 980, Senate Draft 2, was enacted into law as Act 74, Session Laws of Hawaii 2013, and it went into effect on July 1, 2013. Being that today is March 4, 2014, Act 74 has been in effect for just a little more than seven (7) months.

"What is the difference between a VIOLATION and an INFRACTION? For a violation, the person committing the act must appear before the Court. For an infraction, the person does not have to appear in Court and may mail in payment for the uncontested fine.

"Why this change in policy? Aren't we trying to discourage the use of mobile devices while operating a motor vehicle? After all, that was why House Bill No. 980, Senate Draft 2, was approved by this Body less than one year ago. What serves as a greater deterrent for motorists? Having to take off from work to take care of important business at District Court, and experience standing before a judge and going through arraignment and plea? Or merely paying an uncontested fine by mail?

"For some more affluent members of our community, paying the hundred fifty bucks or so is less expensive than taking off from work or finding a baby sitter or making arrangements that deviates from the

customary schedule. But, that is what makes the current law effective. Like excessive speeding, running a stop sign, or an illegal lane change, a defendant must go to court to dispose of the citation. Once a person understands the 'true' cost of the time and inconvenience, he or she is much less likely to violate again. This is the principle of deterrence and punishment concomitant with the offense. For isn't driving a vehicle and texting or using a cell phone dangerous and deadly to operator, passenger, and other drivers and pedestrians? Will we make excessive speeding or running a stop sign an infraction next year?

"I'm not sure if the Judiciary's testimony to the House Transportation Committee, dated January 29, 2014, and the House Judiciary Committee, dated February 7, 2014, was well understood and the fiscal implications appreciated. At first blush, especially reading the January 29, 2014 testimony, one might readily conclude that making the change of mobile device use from a violation to 'an infraction would have several benefits for the public and administration of justice.' This is because it explains the major procedural distinction between a 'violation' and 'infraction'. But the Judiciary's description of the change in law as being a 'benefit for the public and the administration of justice', is where I strongly disagree.

"To the contrary, it is the CURRENT law that requires a person receiving a citation to appear in court, face arraignment, enter a plea of guilty, no contest, or not guilty, and if the person enters a plea of not guilty, return to court on another day for a trial. And it is this effect upon the person receiving a citation that is in the best interest of the public and is consistent with due process of law and the administration of justice.

"Making this substantial policy change under the guise of protecting and advancing the interest of the 'public' is misplaced.

"Moreover, the Judiciary's generalizations gloss over and do not reveal the anticipated operational and fiscal cost in their January 29, 2014 testimony. That important information, however, was described in testimony dated February 7, 2014, to the House Committee on Judiciary. In relevant part it reads:

"[I]t should be noted that the adjudication of infraction cases will place greater demands upon judges (who must review written statements during limited timeframes while 'of the bench') as well as traffic operations bureau staff who prepare judgments, orders and notices of infraction hearings; there would be associated increases in mailing expenses."

"Notwithstanding this clear 'red flag', the record shows no discussion nor resolution of this important concern raised by the Judiciary. Still, I give the Judiciary credit for catching this, although late and after its previous roaring endorsement.

"If that were not enough, the Department of Transportation (DOT) also raised fiscal concerns regarding this bill. Specifically, the DOT noted that the federal Highway Safety Distracted Driving Grant requires increased fines under State Law for repeated offenders. That is why the DOT recommended graduated fines based on the reoccurrence of the violation as follows:

Second Offense	Fine of \$201.00 to not more than \$300.00 for a second offense within one year;
Third Offense	Fine of \$301.00 to not more than \$500.00 for a third offense within two years; and
Subsequent Offense	Fine of \$301.00 to not more than \$500.00 for a subsequent offense.

"The testimony stated that these amendments were needed for the state to remain compliant with the grant requirements.

"Considering that the bill, in its present form, would put the state out of compliance with the federal Highway Safety Distracted Driving Grant, the state will lose an unknown amount of federal funds and based on the review of both the House Transportation and Judiciary Committees, the amount was never ascertained.

"Please note that despite possibly having significant financial impact on our State Highway Fund, THIS BILL WAS NOT REFERRED TO NOR REVIEWED BY THE FINANCE COMMITTEE.

"With that said, in conclusion, the bill before us is the perfect example of legislative pandering at its worst. Last year, because the public voiced their outrage at innocent pedestrians and motorists being injured from distracted drivers using their cell phones, we made it against the law to do so. But now, because another segment of the public voiced their outrage of having to go to Court for what they believe is a minor breach of the law, we need to change our laws again? And just a little more than seven (7) months after the law was enacted in the first place?

"If we believe that as a public policy, we need to write laws that discourage the practice of using a mobile device while operating a motor vehicle, then we should leave the law as it is. If we don't believe that we should approve or disapprove of every conceivable manner of human conduct, then we really should have never approved House Bill No. 980, Senate Draft 2, last year. But to take the position as proposed in the bill presently before us takes neither position seriously and sets the precedent of having every issue 'ping-ponged' depending on how loud a segment of the public screams.

"We need to grow some skin and make a call. And I say, if we make a call, let us protect the public and stand firm behind the law as it is. This is the reason I am voting no against this ill-conceived bill."

Representative McKelvey rose in support of the measure and asked that the remarks of Representatives Luke and Yamane be entered into the Journal as his 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. 1509, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Hanohano, Har and Oshiro voting no, and with Representative Creagan being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 825-14) recommending that H.B. No. 2163, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2163, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2163, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PARENTAL PARITY," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Oshiro voting no, and with Representative Creagan being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 827-14) recommending that H.B. No. 2244, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2244, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I work for a charity. These will not impact me one way or the other. I just wanted to declare that," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. Same request as the last speaker," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2244, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE SOLICITATION," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 828-14) recommending that H.B. No. 2245, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2245, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I work for a charity. These will not impact me one way or the other. I just wanted to declare that," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. Same request as the last speaker," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROTECTION OF CHARITABLE ASSETS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Hanohano voting no, and with Representative Creagan being excused.

At 12:45 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1907, HD 1
H.B. No. 2577, HD 2
H.B. No. 1509, HD 1
H.B. No. 2163, HD 2
H.B. No. 2244, HD 2
H.B. No. 2245, HD 1

Representatives Lee and Evans, for the Committee on Energy & Environmental Protection and the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 830-14) recommending that H.B. No. 2203, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committees be adopted, and that H.B. No. 2203, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker, I'm standing in support of the measure, but I have very slight reservations and I'd like those to be comments inserted into the Journal, please. Thank you. And the slight reservations are related to the use of B lands. Thank you."

Representative Thielen's written remarks are as follows:

"Thank you, Mr. Speaker. I support this bill because it will help Hawaii move closer towards our goal of becoming energy independent and eliminate the use of fossil fuels. However, because high production

agricultural lands are limited in our island state, I do have some reservations about using Class B lands for solar energy facilities.

"As noted by the Department of Agriculture, 'While renewable energy development is essential to Hawaii's energy security, it should be promoted and implemented in a manner that protects the prime agricultural land that is fundamental to agricultural production and food security.'

"On the positive side, HB 2203 does provide for compatible agricultural activities with solar production.

"Again, thank you Mr. Speaker, for allowing me to speak on this measure."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 2203, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY," passed Third Reading by a vote of 50 ayes, with Representative Ohno being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 831-14) recommending that H.B. No. 2243, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2243, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," passed Third Reading by a vote of 50 ayes, with Representative Ohno being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 832-14) recommending that H.B. No. 1723, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1723, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PSYCHIATRIC FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Ohno being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 833-14) recommending that H.B. No. 2052, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2052, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise with reservations. My reservations come from the testimony, provided where many supported with reservations and requested amendments to the bill. It is my belief that this measure needs further vetting and perhaps a task force needs to be established so the interested parties can gather and work out questionable and/or unclear language. Thank you, Mr. Speaker."

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

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

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support but with slight reservations.

"Why are we requiring the Department of Health to adopt a sample provider order for life-sustaining treatment form?

"According to the Queen's Health Systems:

"Requiring the Department of Health to adopt sample provider orders is not necessary as the existing form was developed by state experts in collaboration with national standards for POLST type forms. Requiring administrative rules will delay implementation of this important measure and will not result in improved access."

"That is my only reservation. Thanks."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2052, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT," passed Third Reading by a vote of 50 ayes, with Representative Ohno being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 834-14) recommending that H.B. No. 1184, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1184, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FOOD SELF-SUFFICIENCY," passed Third Reading by a vote of 50 ayes, with Representative Ohno being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 836-14) recommending that H.B. No. 1726, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1726, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Har 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. 1726, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Ito voting no, and with Representative Ohno being excused.

At 12:48 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2203, HD 2
H.B. No. 2243, HD 1
H.B. No. 1723, HD 2
H.B. No. 2052, HD 2

H.B. No. 1184, HD 2
H.B. No. 1726, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 837-14) recommending that H.B. No. 1950, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1950, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise in support with reservations, brief comments. I support the intent of this measure, however my concern has to do with enterprise zones. For those of us who are land use attorneys and who are well versed in enterprise zones, the whole point of an enterprise zone is to take an area that has been blighted, urban blighted area, and to create redevelopment to reinvigorate that blighted area.

"The fact is that in the State of Hawaii, we have enterprise zones in certain areas to, again, create that economic engine and to foster a renewed sense of vibrancy, as we've seen it for example in Wahiawa. We've seen that whole area on California Avenue be revitalized as an enterprise zone.

"So my concern here is, I do support the intent of this measure, but butting it into an enterprise zone is not appropriate, particularly for this type of system. It could potentially be, but I think that we are now going outside the purview of what the original intent was of enterprise zones. For those reasons I stand with reservations. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1950, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEAWATER AIR CONDITIONING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Oshiro voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 838-14) recommending that H.B. No. 2018, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2018, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? In my private sector life, I do represent time share interests. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2018, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 839-14) recommending that H.B. No. 2019, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2019, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, may I request a ruling on a potential conflict? In my private sector life, I represent time share interests. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2019, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 840-14) recommending that H.B. No. 2581, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2581, HD 3, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 841-14) recommending that H.B. No. 14, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 14, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I'm going to vote with reservations on this one. I have real concerns about the mandatory aspect of this, although I sent all my children to kindergarten. But if I understand it correctly, that we aren't statutorily obligated to fund kindergarten, it's just 1-12, and that is the nexus for this bill. I could be wrong, but that is my understanding of it. So, I would prefer if we would just fix that instead of making it mandatory, which would then, obviously, obligate the funding. I'll reserve my final judgment for final vote. Thank you."

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

"Thank you, Mr. Speaker, I rise in strong support of the kindergarten bill, and I request that I can submit remarks to the Journal. Thank you."

Representative Thielen's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in SUPPORT of this measure.

"The intent of the original draft of this bill was to make kindergarten attendance mandatory, and to make transition into kindergarten a directive for the early learning system. House Bill 14 is my attempt to improve our children's education by lowering the mandatory school-attendance age from six years of age to five years of age.

"The original draft of this bill was amended in the Committee on Education to add a new part, which requires the Department of Education to develop a statewide individualized kindergarten readiness assessment system. While the amended language in Part I reflects the intent of my original bill, I have concerns regarding the individualized kindergarten readiness assessment system, as established in Part II.

"I want to emphasize my strong support for Part I of this bill, as I feel it will greatly benefit our children and the state. Lowering the mandatory age for school attendance would increase the number of children in our schools and allow them to get an earlier start with their education. Our children's education would not only increase and improve at the kindergarten level, but the earlier and increased exposure will help prepare them for future educational success.

"With the recent repeal of junior-kindergarten, there has been a push to expand early childhood education to those at the preschool level. While this is a noble effort, there exists a gap between children who will be served through new early childhood education initiatives at the preschool level, and children who are required to attend school at age six.

"It is imperative, Mr. Speaker, that we first address this gap so that all children may benefit from educational opportunities.

"While I wholeheartedly support Part I, the same cannot be said for Part II. I do not agree with the establishment of the individualized kindergarten readiness assessment system, and feel it is inappropriate to label our children – especially at such a young age. All children are unique, and each child may learn in a different way that best suits them. Although parents may exempt their children from the system, I do not feel it is necessary or proper to implement a system that tracks and categorizes children in this way.

"Noting my concerns regarding Part II of this bill, I strongly support Part I and the implementation of mandatory kindergarten. An investment in better education for our children is an investment in the future success of our state.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. With reservations, brief comments. I'm completely in support of mandatory kindergarten, but I do have concerns with Part II of this bill, which is an assessment and an aggregation of all the assessments into a state pool. I think it's disconcerting. Thank you."

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

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

"Mr. Speaker, with reservations. Mr. Speaker, we currently have a hard time getting those kids from 1-12 already. That would be grade 1 through grade 12. You see, Mr. Speaker, when a child isn't brought to school, the only alternative the school has is to take the parents to court, family court. And that takes about a year.

"I am totally in support of making sure our children get to kindergarten, because believe me, all my Title I schools really need those kids in kindergarten so they can be right ahead of the game when they hit in first grade. But I don't think this is a measure we should be moving forward at this particular time. We should really look at how we can promote those parents, those guardians, and really educate them on how important it is to bring your child to school, rain, shine, or kindergarten. I think that's what we should be really focusing on, instead of starting to mandate somebody to bring their child to kindergarten. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 14, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 842-14) recommending that H.B. No. 1675, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1675, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Strong reservations. I will support this bill, but I still strongly believe that this should be negotiated, because all schools have different circumstances. Teachers need to have a voice in how to proceed with working conditions. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, note my reservations on this. I think some of my reservations are actually between the lower grades versus the upper grades, and how one track uses hours versus the other track uses days. So, I know it has a defective date on here and that's why I'm waiting to see what the discussion and the final measure will be at, probably in May. But for right now, just some reservations going forward. Thank you."

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

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

"Thank you very much, Mr. Speaker. In support. I can understand for those who were not in this Chamber during the 2009-2010 Legislative Session as to what all of us who were serving at that time went through. If we recall, in 2009 was the first year that Furlough Fridays were enacted, which led to the State of Hawaii having the dubious distinction of having the shortest school year in the United States, 167 school days. Which, by the way Mr. Speaker, was arrived at through collective bargaining. All the stakeholders got together and in the end decided that our children would have 167 instructional days.

"So in the 2010 Session, a bill was introduced to say, we're going to create by statute, as exists in over 40 other states, to say we're going to create a floor of instructional days that are required for our system. If they want to negotiate for more days, they can do so. But we need a basic floor, because otherwise, up until then it was bargained, and no one thought that that process would lead to 13 fewer days for our children.

"That bill passed the House 51-0, passed the Senate 25-0. Also in that bill, it was required that schools would reach a basic level of minimum instructional hours, because the concern by many advocates was you could have 180 instructional days, but if those children are only being instructed by an educator for three hours a day, that kind of defeats the purpose of having a minimum number of days.

"Mr. Speaker, when I became your Education Chair back in the day, I was actually very surprised, because I had always thought that because the teacher's contract called for 180 instructional days and a seven hour work day, that all schools, all students, had the same number of instructional minutes.

"I guess you can teach an old dog new tricks, Mr. Speaker. I was surprised to find out when we asked the department to do an overview of instructional time for our students, not days, instructional time. When they gave us the printout, I can tell you in 2013, now that has changed because in the 2014 school year it has to be 990 hours at all levels, elementary and high school. Which by the way, Mr. Speaker, is less than 200 hours on average, as compared to schools in other states. So we're still on the low end of required instructional hours.

"I was surprised to find out, you take middle schools, if you look at the 990 hours and where schools were at a few years ago, Niu Valley had 27 fewer instructional days. Ewa Makai Middle had 33 fewer instructional days, Kahuku and Pahoia High School had 18 fewer days, Kapaa 20 days, Wailua 25 days, Kauai High School 38 days. What does that really translate into, Mr. Speaker? What that translates into is, if you take two ninth graders, one going to Kau High School and one going to Kauai High School, if those two students went through four years of their respective high schools, the student that went to Kau High School actually got a year, one year, Mr. Speaker, of instructional time more than that student that went to Kauai High School.

"Now, I don't know about you, but if I were to face a group of parents at Kauai High School and they were to ask me, 'Is it true that my child has one year less of instructional time than that student at Kau High School over that four year career?' I wouldn't know how to answer to that parent. Now I could say, 'Well, it's flexibility, it's autonomy, we let every school

decide.' I do think, Mr. Speaker, there's a compelling state interest to have a floor, and each school can decide, after that, as to what they want to do.

"Just as a reference point, we had an informational briefing on instructional time a few weeks ago, Mr. Speaker, and the principal from Mililani High School came and talked to us. He talked about how difficult it was to reach the 990 hours, but the school did so after dozens of meetings with various stakeholders in the community, among the teachers, among the students, among the staff and so on.

"You see, Mr. Speaker, Mililani was one of the schools that had 35 fewer instructional days for their students. But the principal decided this was something that we should, we could do, we must do. And I had asked the principal, 'Do you think the Legislature should have set that bar, or do you think the school should have just been left to its own devices and have 35 fewer instructional days?' And he said no, he believes it was a good thing, because that forced the school to come to grips with the fact that they could offer more instructional time to their students."

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

Representative Takumi continued, stating:

"Thank you very much, Speaker Emeritus. I'm just going to wrap it up. And it was a good thing. So you see, Mr. Speaker. There are many ways in which we can try to improve student outcomes, and I don't think anybody should doubt that I'm not a believer in the collective bargaining process. But in this case, and at least in 2009, that process failed all of us, particularly the students of this state. Thank you, Mr. Speaker."

Representative Hanohano rose, stating:

"After hearing his compelling remarks, I'm going to vote no on this. Because for me, I went to school when I was age four. So a lot of the students that were older than me, whether they were born January, February, all the way up to December, they had a lot of time to learn before me. But yet, when they did the groups, they weren't in the fast or advanced groups. And yet, I as a four year old, because I was prepared by my *kūpuna*, my aunts, my uncles, people that surrounded me with love and gave me all the love that I needed to be a good child, a good student, a person that was *'iike*, that was ready to learn. I was *mākaukau* for the school. Actually, I didn't realize this until I analyzed my whole life.

"And so, student outcomes do not depend on the amount of time you spend in school. It's really the reinforcement from your own *'ohana*, which is lacking in all of our societies and communities today. We here need to get back to the roots and really learn how to learn. Learn how to love. Learn how to be at peace with one's self. Because time does not measure outcomes. *Mahalo*."

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

"Mr. Speaker, with reservations please. Mr. Speaker, I really want to thank the Education Chair for his veracity. He rightly so said that furloughs were a collective bargaining issue, not that of a former Governor. That's the first time I've ever heard that being said. So I'm very pleased, I just want to thank him profusely.

"Secondly, Mr. Speaker, the irony of the furloughs, which points to leadership, points to quality, is that test scores went up after Furlough Fridays. Go figure. Test scores went up after Furlough Friday, and I think this bill begs that. If we leave it up to the individual schools, to the leadership, to the principals and to the parents, good things can happen. Rather than one-size-fits-all, we found for the school system, which is 43rd in this nation, that one size doesn't fit all. We're still trying to put this one size round peg in a square hole and think it's going to work.

"If we're going to lift ourselves up, we've got to have leadership, we've got to have decentralization, and we've got to have a chance for these people to have a choice. For those reasons, Mr. Speaker, we can do better, and that's why I have reservations. Thank you."

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

"Mr. Speaker, in opposition. I really appreciate what the chair has done in addressing a number of these issues, Mr. Speaker, but this bill also has a potential of masking some of the real needs.

"Kahuku was mentioned as one of the schools that had a significantly fewer amount of days and hours worth of instruction time, Mr. Speaker. But that points to a need and a flaw within the infrastructure of the school. When it rains over there, the school floods, Mr. Speaker. You couldn't force kids to attend school when the school is essentially flooded and you can't go to school.

"This measure will mandate that time, but it doesn't fix the underlying problem, Mr. Speaker, of why kids can't go to school when you have bacteria infested water sitting on the campus. So this measure could potentially mask some of the real problems that we face in schools that are the underlying cause of the lack of hours in school. Thank you, Mr. Speaker."

Representative Takumi rose to respond, stating:

"Mr. Speaker, not to belabor the point, but still in support. Point number one, the 990 hours and 180 instructional days does not take into account rain days or if there's a tidal wave or an earthquake or something that happens to that school, then the students are not required because they will get a waiver to get excused from them. That 990 hours or the 180 days are in the aggregate.

"I'll give you one example, Mr. Speaker. If you decide to take your child out for two weeks to go to Disneyland or something like that, your child did not, obviously, have that 990 hours. Well, your child doesn't have to make it up by going to summer school or something like that. That is part of an everyday occurrence that happens in our schools.

"Second point that has been brought up a number of times is about how the schools did better if you take high-stakes testing as an outcome, when there were Furlough Fridays. Well, you're taking a statistical aberration, and I believe my good friend, the Representative from Hawaii Kai, should know that. When you look at statistical anomalies, these sort of things happen. Otherwise, why don't we just try a nice experiment and go with 140 school days and see what happens? Sort of like, Mr. Speaker, if you go to Las Vegas and it's raining outside and you hit the jackpot. Why, after all, you might want to go to Las Vegas only when it's raining after that. Thank you, Mr. Speaker."

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

"Mr. Speaker, standing up in opposition. I will not comment on the issue on if it's raining in Las Vegas. The reason why I oppose this measure is the fact that, unlike some of the other testimonies for and against this measure, one of my biggest concerns is making sure that this Body continues to support our teachers.

"Mr. Speaker, this process regarding instructional hours not only has increased the minimum amount of time the students stay in. However, it was an extremely difficult task for many of the principals, including those that spoke to the Chair of Education, but principals as well as teachers alike throughout my district. For many teachers, it required them to search and determine and choose between what services, by hour, would they be able to provide versus the content that they felt required for the students to learn.

"So with that concern, Mr. Speaker, I'm hoping that as this measure moves forward, that the chair will continue to strive to work on behalf of not only what the principle is on the basic education hours, but also never to forget that one of the assets and benefits to our children is not only the amount of time they spend with the teachers, but also the content that they learn. And Mr. Speaker, my no vote, in opposition, is to support those teachers in our classrooms. Thank you."

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

"Thank you, Mr. Speaker. I'll be voting with reservations. I appreciate the history lesson from the Chair of the Education Committee. He has been a stalwart leader in the area of public education over many, many years. And I recall back in 2009 and 2010 when then Governor Linda Lingle at that time, and then the current board at that time, I think the Superintendent was Patricia Hamamoto, I think at that time we had an elected board. They had somehow come to an agreement by which they would be entering into their contracts with the teachers, the Hawaii State Teacher's Association. And lo and behold, to the surprise of many of us and the dismay of many of us, we did make the headlines nationally by having the dubious distinction of having the least amount of school days of a public school system.

"And I remember those discussions with those activists, teachers and mothers who came in from Honolulu to meet with me to see if we might even convene a special session to address the shortfall in the budget and maybe seek a reopening of the contract entered into by the respective stakeholders and parties. We did not go into a special session that year, but we went into a regular session. But at that point in time I think everybody became aware that the current contracts as written and as enforced still put us at the lower end of the number of instructional hours or teaching days.

"So I think it came to us and many of us struggled with it because we understood the principles of collective bargaining under Chapter 89. But at that point in time we did make a policy choice. And I think I'm still wrestling with it even today, Mr. Speaker, to be honest, to put into statute basic bare minimum of instructional or teaching hours for our students. This has been done in other areas of collective bargaining. There are certain areas that are not bargainable that are put into statute that's off the table. We've done that, so that's not earth shattering in and of itself, but maybe we have never done this with a contract regarding our teachers.

"So there's a little rub right there, there's a little aggravation going on right there and I understand that, for the purists who uphold the principles of collective bargaining in Chapter 89. But I think we tried to work it out as best as we could during that period of time, which was really an anomaly, to have all kids out of school because of Furlough Fridays. And I don't think any of us ever want to contemplate ever going back there or even having a possibility of going back to Furlough Fridays.

"So I've really got to commend the Chair of the Education Committee for the work he's done here to try and address the needs of our students, foremost and first, then address the needs of our expectations of our constituents, their parents or custodians or guardians to the education. At the same time to give the Board of Education and the superintendent there to have the ability to still within the operations and principles of collective bargaining in Chapter 89.

"I've said a lot, but at the end of the day, I'm going to support this measure going forward, subject to those reservations. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Mr. Speaker, I wanted to thank the Chair of the Education Committee for the lesson on specious reasoning. I'm quite familiar with specious reasoning, because I know there's a direct correlation between residential fires and yellow fire trucks. Therefore, yellow fire trucks cause residential fires. That's specious reasoning. What we have here in the Department of Education is to assume that bills like this with a one-size-fits-all is going to fix education. That's the specious reasoning behind a bill like this and that's why I still have reservations. Thank you."

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

"Thank you, Mr. Speaker. I rise in support with reservations. I do acknowledge the work that the Chair of Education has done, but I'll just say this. I think there's still some concern from the bargaining unit, the teachers specifically, regarding how this law marries up to their current

agreement in contract. I do believe that moving the definition of instructional hours and the definition of how that works to the Board of Education is a step in the right direction. But I still acknowledge that we are still apart in terms of what is in law versus what is in the contract.

"I do support Chapter 89, and I would just hope that as we go through the process, that there can be some agreement as to, or some appreciation, acknowledgement of what is in Chapter 89 and what is in the current bargaining unit. Because, for example, there are some definitions in the agreement, there are some specific terms, there are some specific times in terms of minutes that just don't marry up with our current law. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. As a teacher who was teaching in the Department of Education during the Furlough Friday year of 2009, it's unconscionable for me or any other teachers ever to go through that again. It was a year where we typically had four day weeks and often had children coming to school on those rare Fridays asking, "Why are we having school?" Three-day weekends made those Mondays that came so many times that much harder when the students were usually off and expecting to have long weekends.

"I would also like to point out in to response to a couple of the previous statements that the following years when the hours were restored, scores continued to go up. I don't attribute that to the hours, I attribute that more to mentoring or a strong use of data and just the ability for teachers to do more with less. But again, scores continued to go up even when the hours returned.

"Finally, as mentioned before, the principal at Mililani did a hard task in working to find a schedule suitable for him and his teachers to reach that 990. This bill, if this bill were not passed, that principal at Mililani would have to go back and do that same hard work when it comes time for 1080. This bill would strike the 1080 requirement, and that principal can continue to do his hard work in educating his students. So for those reasons, I stand in support. Thank you, Mr. Speaker."

Representative Cullen rose in opposition to the measure and asked that the remarks of Representative Yamane be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, if this is an appropriate time, I did submit a green slip as a no vote. I'd like to change that to with reservations, please. Thank you."

Representative Har rose in support of the measure with reservations and asked that the remarks of Representative Oshiro, Morikawa, Yamane and Jordan be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

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

"With reservations, brief comments. I want to commend the work of the Chair of Education as well as the Vice Chair on the great work they've done with this measure. My reservations stem from the fact of, or the way that I learn. I tend to have a hard time sitting in a classroom as teachers tend to pander to the lowest common denominator of student in lecture-style classrooms.

"I think we could look to our charter schools, particularly one in my district, Kihei Charter School, which is a hybrid model of learning, project-based, which has some of the lowest classroom time out of any charter school or school in the state including private, with great use of the internet and mobile devices and module-based learning, where the student

can go at their own pace, accelerate or slow it down as needed. That's the type of learning that is effective for me, my little brother, and I think many of the children in the future. So if we want to help increase student outcomes, I think that's the path we should go instead of mandating in-the-classroom times.

"Also, of course that's going to come with the teacher autonomy to move towards those types of models, will also have to come with more principal or administrator autonomy to allow them to levy some sort of measures or ways to keep these instructors accountable as well. So for those reasons, with reservations. Thank you."

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

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

"Mr. Speaker, I'd like to make the same request as the Representative from Hilo. I believe I did turn in a green slip. I did ask earlier before session for the Chair of Education to do a Floor speech. I didn't know he was going to do it as articulately as he did on this bill. I'd like to ask that my green slip be removed and I'm going to vote with reservations. I want to thank the Education Chair for his words on this bill. Thank you."

Representative Fale rose in opposition to the measure and asked that the remarks of Representative Yamane be entered into the Journal as his 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. 1675, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 37 ayes to 14 noes, with Representatives Aquino, Awana, Carroll, Cullen, Fale, Fukumoto, Hanohano, Ito, Johanson, Kawakami, Matsumoto, Say, Thielen and Yamane voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 844-14) recommending that H.B. No. 2008, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2008, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise in strong support of this measure with brief comments. This measure will provide appropriation for Future Farmers of America programs, which educate, support and encourage our youth to participate in agricultural activities. We all know that Hawaii is facing dependency on imported food, an aging farming population, and that we really need to invest in our youth.

"Last year we passed Act 204, which appropriated \$75,000 to the Department of Education for FFA. And while I stand in strong support, it has been recently brought to my attention that almost all of the money has gone to administrative services instead of directly to the schools which need it the most. This critical program funding should be directed straight to the FFA programs to purchase much needed supplies, equipment and training courses to better provide the students with skills that they need to become the next farmers of Hawaii.

"So, as this bill moves on I hope the Senate will take this into consideration and appropriate a percentage of the funds to go directly to the school. Thank you, Mr. Speaker, and I continue to support this measure."

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

"Mr. Speaker, in strong support and may I have the words of the previous speaker adopted as my own. Mr. Speaker, this kind of also lends to my reservations with the prior measure that would make kindergarten

mandatory, Mr. Speaker. There's certain things that you can experience only as a kid, that you should be doing as a kid, which include experiencing what it's like to grow things. To raise things with your own hands, to put your own body and to make something grow out of the earth with your own blood, sweat and tears, Mr. Speaker. That's something that unfortunately seems to be on the decline. Not only in the State of Hawaii, but the nation as a whole, Mr. Speaker.

"So, with strong support for this measure. This will help to open up the opportunity in whatever way possible for the children here in the State of Hawaii to have that experience. There's something that, as our founding fathers would say, that is very nurturing to the soul of a person who engages in agriculture, Mr. Speaker. Sometimes I find it amazing how youth today really think food just comes out of the warehouse, out of some place, Mr. Speaker, and not from the earth itself.

"The further we disconnect ourselves from agriculture, from growing things, from learning about the way life actually functions, Mr. Speaker, I think is, we suffer every day that that happens. This Future Farmers program allows us to help reconnect with who we are, especially given the uniqueness of Hawaii and the state and the history that we have. Not only as an island people, but the history with the plantations, Mr. Speaker. This Future Farmers program really does allow us to reconnect with our roots. And for that, Mr. Speaker, I'm strongly supportive of the measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2008, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

At 1:23 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1950, HD 2
 H.B. No. 2018, HD 2
 H.B. No. 2019, HD 2
 H.B. No. 2581, HD 3
 H.B. No. 14, HD 2
 H.B. No. 1675, HD 1
 H.B. No. 2008, HD 1

At this time, the Chair stated:

"Members, we are going to be taking a recess for lunch, 30 minutes. Thirty minute lunch."

At 1:23 o'clock p.m., the Chair declared a recess subject to the call of the Chair

The House of Representatives reconvened at 2:16 o'clock p.m.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 845-14) recommending that H.B. No. 2109, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2109, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, in support with reservations. The after school program is a program that's run mostly in the lower grades in our elementary schools. This was once funded by the General Fund, but it hasn't been for multiple years. If people remember, in the very beginning it was \$25 for those families to enroll their child in there and then lesser fees for a subsequent family member. When we started rolling back the funding on it, it was \$55 a month. Currently, it stands at \$85 a month, but that \$85 pays for this program in entirety.

"My reservations with this is, if we're going to fund the A+ program, then let's fund the A+ program. Let's not start another program until we get a little bit more consistent with this. I'm just going to go with reservations for now. It still has a 2030 deadline, and I will wait to hear what the Senate does to it, and if it comes back to us then I'll have to make my mind up at that point in time. Thank you very much, Mr. Speaker."

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

Representative Fale rose in support of the measure with reservations and asked that the remarks of Representative Jordan be entered into the Journal as his 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. 2109, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AFTERSCHOOL PROGRAMS FOR ELEMENTARY SCHOOL STUDENTS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 846-14) recommending that H.B. No. 2257, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2257, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, this is the bill that says we can put a salary cap of \$250,000 on the superintendent of schools. Not a problem. However, it's not about the money, it's about the results. My problem is this, there are not any performance measures codified. The BOE has performance measurements, but they are kind of, they're not warm and fuzzy, but they're more processed as you get along. Do you communicate? Do you listen? There's one about, do you increase scores? It doesn't say how much you increase it, whether it's 0.5 percent or if it's 2 percent. The point is, there's not solid metrics in this.

"So it's not a matter of money, as I said earlier when it was Second Reading. We could pay a million dollars if we could get out of the 43rd in the nation educational system and where we are right now. So my point is, we should codify, and if there was an amendment to be put into this, it would be, let's put performance measures from this Body into this salary connection and not leave it to the BOE given that they may change officers or they may change members, and then it'll slowly fade away. So anybody who gets a quarter of a billion dollars, do their performance measures, very tight metrics and that they get the job done. We need results, we don't just need to give them more salary. Thank you."

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

"Mr. Speaker, also with reservations, but for different reasons. We have one of the largest school districts in the country. I forget exactly where it is, but it's easily in the top 20. There's a market for superintendents for schools of this size and I don't see any reason why we shouldn't let the market work and just remove the cap entirely. Yes, we're going to want results and that's why we would want to pay more money to get results, but this is an instance where the market's working fine and I don't think there's any reason to tamper with it. So my preference would be just to remove the cap entirely. Thank you."

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

"Mr. Speaker, in support with reservations. May I have the words of the Representative from Hawaii Kai adopted as my own? And then short comments, Mr. Speaker. This is where I look to football for guidance, Mr. Speaker. I believe that if public servants were held to the same standard that we hold our football coaches, we would have a much better civil

service, we would have a much better public service, Mr. Speaker. It's because it's all based on results.

"You bring somebody in, you give them a few years, two, three, maybe four years to run their thing, but if they don't deliver results, Mr. Speaker, you let them go and you bring in the next person. But you make sure you compensate them appropriately. You make sure that if they deliver, nobody has a problem in Alabama with paying Nick Saban what Nick Saban gets paid. And if we won a national championship this year, Mr. Speaker, at the University of Hawaii, I'm pretty sure if we paid our coach a sufficient amount, we wouldn't hear any complaining about that either.

"As long as results are delivered, Mr. Speaker, nobody has a problem with the compensation package. As long as the deliverables are tied to the compensation, Mr. Speaker. I think that's a very important reason, and that's why I really like the comments from the Representative from Hawaii Kai."

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. *Kako'o 'ole.* In opposition. I just heard the speakers before me, and I do agree there needs to be performance measures. But if we just look at the amount of prisoners we have in our prison system, it tells you that's the failure of education. Been there for 25 years, know the ropes there, and a lot of them, because they didn't finish high school, they didn't have any guidance, and yet we keep pouring more monies into education. And yet, especially for native Hawaiians, we're the highest in the prison.

"So, what really has this governmental educational system done for our society? The host culture is all locked up. The host culture is all in health disparities with the highest for heart attacks, diabetes, you can go on and on. Native Hawaiians are in the highest in everything. Whether it's the homeless, whether it's shelters, whether it's in the educational field. And yet, we still keep the same system of DOE. It really needs to be overhauled. And if we had a very good superintendent today, the population in the prison would go down. But it hasn't, Mr. Speaker. So really, what are we, as law makers, going to do to solve this problem? *Mahalo.*"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2257, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF EDUCATION SUPERINTENDENT'S SALARY," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Carroll, Hanohano and Thielen voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 847-14) recommending that H.B. No. 2473, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2473, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 848-14) recommending that H.B. No. 2598, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2598, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, may I request a ruling on a possible conflict? My wife is a volunteer officer with Hawaii 3R's. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2598, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII 3R'S," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 849-14) recommending that H.B. No. 2308, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2308, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In opposition. Just brief comments. Mr. Speaker, it's my understanding that the position of the House was in light of our surplus that we were going to be prudent in any new government programs that we start up. And given the fact that this is an administration bill, I still have very serious reservations as to whether this is in fact duplicative of other services.

"Moreover, given the fact that this is money that would go to the Department of Health, a department that continuously has problems, always claims that they need more positions, always claims that they need more money. I have little faith that they will be able to execute this. Instead of starting a whole new program and allocating General Fund monies to this program, I would like to see that we are ensuring that we are not just once again growing government and looking to see what resources we currently have and where we could fit this program. For those reasons, I am in opposition. Thank you, Mr. Speaker."

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. *Kako'o 'ole loa.* In strong opposition and I would like to have the words of my colleague from Kapolei as if they were my own. I am in agreement with what she had just said, because we always want to grow government and yet on the other bill when I was talking about the Department of Education and we haven't come up with a better solution for it, and yet we want to do an Environmental Information Management Office, and we really haven't taken all of the inventory of our public lands and our resources here. So why do we keep doing this to ourselves? Why does government keep asking for positions that really are meaningless, unless we really see results, especially in their performance measures? *Mahalo.*"

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

Representative Fale rose in opposition to the measure and asked that the remarks of Representative Har be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Thank you. In support. This bill is important because what it does is formalize an existing program that the department's been running through special funds for some time. That program is specifically taking information that has been collected, aggregating the data and putting it into a format that is transparent, useful and understandable, both for the general public and for policymakers like us.

"Without this, we have no idea how to properly allocate resources, how to focus and target our efforts to alleviate some of the concerns that the department's responsible for handling. Again, this bill does not duplicate any of the effort that Sonny and OIMT has done over the last few years. It has been something that has been years in the works and merely formalizes an existing arrangement. Thank you very much."

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

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

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

Representative Hanohano rose to respond, stating:

"Just a slight rebuttal. You know, we always say we want to create so many different new things, and yet we don't look at what we already have and try to reevaluate it and try to make it work better. But what's happening here is, as policymakers, we haven't been thinking about the wellness of the people, the wellness of the land and the wellness of the resources. Thank you."

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

"Thank you, I rise in support with slight reservations. I think it's really great to have a central place to go to get information, because clearly people will always have questions and don't know where to go to get that information. My concern is, like previous speakers, is you're growing this department and adding more people. We already have directors, we already have divisions. Maybe we need an information manager, but do they really have to create an office, another division, another office within Department of Health?

"But I think more importantly, at some point, I really hope that the Legislature looks at a Department of the Environment or the Department of Ecology or Environmental Services, because this department is getting huge and it may be time that we think about a better structure. Thank you very much."

Representative Awana rose to respond, stating:

"Thank you, Mr. Speaker. I'd just like to echo the sentiments of the good Representative from Waimea on the Big Island, as well as a measure that was introduced this year to request that separation. We have an EPA and a Department of Health and Human Services at the federal level. We also mirror that at the county level. But here on the state level it seems like the Department of Health oversees as an umbrella over environment. And as we look forward and as we go into the direction of seriously looking at the different environmental issues in our state, I think it would behoove us not to take a closer look at perhaps even separating the Department of Health and having a separate department for environment. Thank you."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. A second time, still in opposition. Just brief rebuttal. I just think that, again, if you clearly look at the bill itself, it's not a very long bill, and yet it proposes to start a whole new department. There were comments made about, well this is just memorializing what was in special funds. Well, now we're taking out money from the General Fund. And currently, from what I can understand, again the bill is not clearly written, but it states that it's going to be funding two positions, a manager of environmental information, as well as a senior information technology specialist.

"Now, if you look at the actual bill on page 2, it clearly states, 'The manager may hire staff, as may be necessary.' Which means they'll be coming back some more and asking for more positions and ergo more money.

"So, Mr. Speaker, I think something that really moved me was the testimony of the Chamber of Commerce. The chamber made it clear that perhaps the department should really clarify, how is the appropriation of this money and these positions and this new program, how is it going to be

benefitting taxpayers? That has not been the question answered, and for those reasons I continue to stand in opposition. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support with some reservations. During Finance I wanted it clarified, because as you read the title, establishing an Environmental Information Management Office. So people in my district will probably think, 'Hooray, we finally got an office that's going to handle environmental issues.' Quite contrary. When I asked the Department of Health, what is this really about? And it's technically just gathering all the current reports, a water report, a soil report, a sampling report, and putting it all in one place, so it's easier for our constituents to get that data, when currently our constituents can get that data. It's available right now.

"As the good Representative from Kapolei had pointed out, we're building a new inter-department to house all this information, when it's already there. I really think our Department of Health should really focus on environmental issues and having that information available to the general public, which they currently don't.

"This is all just required reports that they're supposed to have. Like on water sampling, like on soil sampling, like if they did a testing of something. They already do that. This is just going to make is simpler for people to access. So do we as a government want to say, 'Okay, well access is easier for you now,' when you already clearly have it. Or do we want to build departments that are more efficient for people seeking better information on other environmental issues. Thank you very much, Mr. Speaker."

Representative Fale rose in opposition to the measure and asked that the remarks of Representatives Har and Jordan be entered into the Journal as his 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. 2308, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF AN ENVIRONMENTAL INFORMATION MANAGEMENT OFFICE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fale, Hanohano and Har voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 850-14) recommending that H.B. No. 2312, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2312, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"In support. What this bill does is basically go back to our original intention way back when, when we raised the Barrel Tax from 5 cents \$1.05. This is back, I believe, in 2010. But at that time, we couldn't put all the money into those programs and areas that we wanted to back then. And we basically took 60 percent of that monies into the General Fund for purposes of just balancing the budget over the biennium at that period in time.

"I stand in support of this bill because I hope that we can actually go back to what we tried to do back in 2010. And that was to raise the Barrel Tax from 5 cents to \$1.05. We wanted to actually take most of that money and use it to develop renewable energies to support the renewable energy initiatives that had already begun several years before that but never had any funding stream. And it was a big leap of faith and confidence by the Legislature at that time and the Chair of the EEP Committee at that time, and the leadership at the time, to raise it from 5 cents to \$1.05. Tremendous increase.

"Through those years, I can still hear my friend from Kailua crying out to me to restore some of that funding that is now going to the General

Fund to those other program areas, like food security, energy security and energy innovations, and supporting the renewable energy programs and projects, both in the public and private sector.

"So I hope this bill can get through and we can do so. The current draft, I think, raises it from 5 cents to 15 cents. So that means that 10 cents has to come from somewhere, and I hope it can come from the General Fund, a portion of it. But that's where my reservations lie. I don't know where the 10 cents is going to come from. Is it going to come from the Food Security Fund? Is it going to come from the Energy Sustainability Fund? Is it going to come from the Energy Infrastructure Fund? I don't know. Because right now they get about 40 percent of the dollar, and 60 percent goes to the General Fund.

"But again, Mr. Speaker, I support the proposal to increase the Environmental Response Fund. I think it's necessary given what's happened over the last several months and what remains to be seen regarding the spill in Honolulu Harbor. So I think this is a good bill, and I think I need to stand up at times and say good things about good bills moving through. Thank you. Support with reservations. My reservations, Mr. Speaker, stem from the fact that at the end of the day, the choice has to be made on where is that 10 cents going to come from. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2312, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD SECURITY TAX," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fale, Har and McDermott voting no.

At 2:38 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2109, HD 2
H.B. No. 2257, HD 2
H.B. No. 2473, HD 1
H.B. No. 2598, HD 1
H.B. No. 2308, HD 2
H.B. No. 2312, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 851-14) recommending that H.B. No. 2292, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2292, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise with reservations regarding HB 2292, HD 1, a measure that reimburses the Department of Human Services for a lack of funding from the federal government, for services and fees associated with the federal Hawaii Health Connector website roll-out.

"Mr. Speaker, the Star Advertiser reported that a \$200 million federal grant was used by the State of Hawaii to develop the Hawaii Health Connector website. How were these federal dollars spent? Why was the website delayed and why is it still not working properly?

"In addition, Mr. Speaker, why are the people of Hawaii now being asked to pay an additional \$6 million dollars, to continue to fund the Hawaii Health Connector? It appears that this bill is saying that the entire \$200 million has been spent and now the State of Hawaii needs to spend an additional \$6 million, to continue to fund this federal program.

"Finally, Mr. Speaker, my reservations are also based on the fact that when the State of Hawaii is finally reimbursed for the \$6 million, it is not clear where the money will be received. Will this money go back to the State of Hawaii General Fund? Will this money go back to the Department of Human Services? This is not stated in the bill.

"For these reasons, Mr. Speaker, I rise with reservations regarding HB 2292, HD 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2292, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR THE MED-QUEST DIVISION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 852-14) recommending that H.B. No. 2188, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2188, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Hanohano 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. 2188, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fale, Hanohano and Matsumoto voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 853-14) recommending that H.B. No. 2250, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2250, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 855-14) recommending that H.B. No. 1596, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1596, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1596, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LITERACY," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 856-14) recommending that H.B. No. 1588, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1588, HD 2, entitled: "A BILL FOR AN ACT RELATING TO QUALIFIED COMMUNITY REHABILITATION PROGRAMS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 857-14) recommending that H.B. No. 2489, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2489, HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUVENILE JUSTICE," passed Third Reading by a vote of 51 ayes.

At 2:40 o'clock p.m., Representative Takumi requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:44 o'clock p.m.

At 2:45 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2292, HD 1
H.B. No. 2188, HD 1
H.B. No. 2250, HD 2
H.B. No. 1596, HD 1
H.B. No. 1588, HD 2
H.B. No. 2489, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 858-14) recommending that H.B. No. 1616, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1616, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mahalo ho'omalu 'olelo. Thank you, Mr. Speaker. Kako'o loa. In strong support. He pila makai loa kēia. This is an excellent bill. 'O kēia pila e imi ka ho'oponopono ana no ke ola ana a me ka noho ana no na po'e no Hawaii nei. This bill seeks to correct the health issues of all the people of Hawaii. Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1616, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH PLANNING," passed Third Reading by a vote of 49 ayes to 1 no, with Representative McDermott voting no, and with Representative Nakashima being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 859-14) recommending that H.B. No. 1684, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1684, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1684, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MANTA RAYS," passed Third Reading by a vote of 50 ayes, with Representative Nakashima being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 860-14) recommending that H.B. No. 2101, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2101, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, In 2004 the management and control of the Kaho'olawe Island Reserve was transferred from the Navy to the State of Hawaii, with the Kaho'olawe Island Reserve Commission as the state agency designated to oversee the use and restoration of the reserve. Since that time the Kaho'olawe Island Reserve Commission has developed and employed innovative restoration projects that work in the extremely harsh conditions of Kaho'olawe. These projects have served as the foundation for the future restoration of the island.

"In 2013, a state audit of the Kaho'olawe Rehabilitation Trust Fund reported two key findings. The first finding was that the trust fund will be depleted by 2016, and the second finding was that the Kaho'olawe Island Reserve Commission lacks a comprehensive and quantifiable restoration plan with performance measures to gauge whether objectives are being met.

"Taking those two key findings into account, the state needs to take action to reinvigorate the Kaho'olawe Trust Fund in order for the Kaho'olawe Island Reserve Commission to continue and to improve their work on the island of Kaho'olawe.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and, in the spirit of *Aloha 'Aina*, to vote yes on HB 2101. Thank you."

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

"*Mahalo ho'omalulu 'olelo*. Thank you, Mr. Speaker. *Kako'o loa*. In strong support. *'O kēia pila e kako'o ka hana ana e pili ana 'o Kanaloa a me ka ho'okala ia mai ke ke'ena kope 'auhau*. This bill helps the Kahoolawe Island Reserve to do its work and funding from the conveyance taxes. *Mahalo*."

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise in support of HB 2101, HD 1, a measure that relates to the future funding of the Kaho'olawe Rehabilitation Trust Fund, a fund that was established by the federal government in 1994 to clean up unexploded ordinance and restore the Island of Kaho'olawe.

"Mr. Speaker, the health and wellbeing of the Island of Kaho'olawe is important to the Hawaiian people and people of Hawaii. The restoration of the Island of Kaho'olawe also has symbolic significance. If we can help to repair and restore the Island of Kaho'olawe, we as policymakers can also commit to helping and restoring the Hawaiian community.

"For these reasons, Mr. Speaker, I rise in support regarding HB 2101, HD 1."

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

"Mr. Speaker, in strong support and let me state my reasons why. We were here during the year 1977 when the Protect Kahoolawe Ohana made a presentation on the Speaker's rostrum. I believe the senior attorney here was here, because we had to get the approval from the Speaker of the House along with the Majority Leader, who at that time was Majority Leader Henry Peters.

"But speaking on behalf of the Protect Kahoolawe Ohana was a young man that graduated from St. Louis High School who had passed away

during the period of time where there was a natural disaster, meaning a storm. And that was Mr. George Hill, one of the best falsetto singers that I've ever heard and met.

"But I was very much given the privilege as a young man, a freshmen, to be the Chair of the Committee on Culture and the Arts. And through the wisdom of Speaker James Wakatsuki and Majority Leader Peters, they gave me the opportunity of heading a committee made up of members from Kauai, which was Richard Kawakami, from Maui, that was Richard Caldito Jr., on the Big Island it was Mr. Minoru Inaba from Kona, and from Oahu, for the Republican Caucus, Representative Kinau Kamalii. Boyd Kamalii, Henry Peters, myself and two others.

"It took us 29 years to get the return of Kahoolawe, thanks to the deceased and famous senior Senator Dan Inouye. But more importantly, I would hope that the Senate would consider this measure as a nexus of continuing the funds that Senator Inouye got from the Department of Defense, Navy expenses in the cleanup and the reclamation of the island. I think some of you have visited the island, which is a very beautiful island, which leads us to the South Pacific, the channel.

"But more importantly, Members of the House, the conveyance tax would be one area of where we could tap the funds, because in 2015 the federal funds will be expiring, meaning that they won't have a trust fund available for them to operate and maintain and perverse an island that has a lot of historical, cultural history. But more importantly for me as my years here, the opportunity of meeting people like Walter Ritte, Dr. Emmett Aluli, Professor Davianna McGregor, Colonel Scott Stone, who's now at the Kahala Nui, and others who played a major role in the return of Kahoolawe, the island that we call the Red Island because of its soil.

"And for those of you who weren't even born, I would say the X and Y and Millennial generation, it was a time where we had a lot of discussion of the renaissance of our Hawaiian community. And for me, this symbolizes the rebirth of the Hawaiian culture. This is a symbol of coming together. And if we all put our forces together as one Body, as one community, and the people of the State of Hawaii, we can achieve these goals. And thanks to all of you who are here today listening to what I'm saying, even though you may not think about it, but these issues were at the forefront that I would say to all of you galvanized the Hawaiian community to what we have today, also when the creation of the Office of Hawaiian Affairs and other programs that we have.

"So in closing, to my counterparts in the other Chamber, please consider this measure very seriously in providing the resources in the restoration and the cleanup of Kahoolawe and the preservation of an island so dear to the Hawaiian community. Thank you very much."

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

"Thank you, Mr. Speaker. I'd just like to enter some strong support on this measure. Here we are in 2014 and those of us who were involved back then with the PKO, Protect Kahoolawe Ohana, would never imagine we would be here today talking about finding a revenue source to continue the work that Senator Daniel K. Inouye began many years ago, once we returned the island to the State of Hawaii to be caretakers for all of Hawaii's people. I just hope that we can do this. This is important. And given the experiences of recent days and weeks, I think this is so important for our host culture.

"I remember back then at the University of Hawaii getting involved in some of the protests we had at Hawaii Hall, Bachman Hall, Navy Exchange, going down to Maui, Makena, Big Beach, the Rim Pac exercises. I remember playing hooky from school and getting found out because there were TV cameras back then and, a little bit delayed, Mr. Speaker, but my mom and dad find me not in class but on protest on Makena, on Maui. But, those were the days, yeah? And I remember the red shirts back then with the PKO emblem on it.

"I think my friend from the Windward side too will remember those days of standing out there with people from across the island chain, all walks and denominations and colors and creeds, just believing that we needed to go and stop the desecration of one of our islands in our chain of

islands. To see it culminate where we are today, I think this is the next step maybe for this generation. I think that's what the speaker alluded to. Maybe for the X and the Y and Millennials, this is the next step, to continue the work that was started many, many years ago with the *kupuna*, Uncle Mitchell and Uncle Charlie, and the other folks. So I just wanted to make these comments. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in strong support of the measure. Mr. Speaker, there are a few names that haven't been mentioned and I would like to mention them today, because we all owe a deep debt of gratitude to the late Senator Spark Matsunaga.

"Let me go back to the early days, when I was fortunate enough to be one of the attorneys representing the Protect Kahoolawe Ohana. We went into federal court before visiting Judge William Schwarzer. And Judge Schwarzer granted our motion to let the Ohana go onto the island again for the first time in I don't know how many years, to be able to go on and participate in the archeological survey. So we went out in small boats. The wonderful people of Maui took us out to the island and we had our gear in trash bags, *ukana*. And we swam ashore in the shark infested waters, but we swam rather quickly and got ashore and set foot on the island again, and began to do the archeological work that was so important.

"At that point, the Navy wanted to put a range control tower up on Moa'ula, which was one of the sacred areas on Kahoolawe. And the person that came to our defense to help us was Senator Spark Matsunaga. Without his strong leadership in Washington and working for us to prevent that range control tower, that area would have been desecrated.

"So, I then go back over to the Capitol at that point, and there was a young Representative fresh out of law school that was here in this Chamber, the former Representative John Waihee. The very first thing he did as a legislator was put in a measure urging that the entire District of Kahoolawe be placed on the National Register of Historic Places. And he was successful in getting that measure passed, and we were all together successful in getting it placed on the National Register of Historic Places, which gave it the sort of uncomfortable distinction of being our only National Register bombing site.

"So we then fast forward to some other people, and Representative Pat Saiki worked very hard in Congress and with the President to stop the bombing of the island. And she was successful in that.

"I also think that we should stop and think about young Kimo Mitchell, Uncle Harry Mitchell's son, who was with George Helm when they both disappeared in the waters off of the island when they were trying to go ahead and further the restoration of Kahoolawe, the return of the island to the people of Hawaii.

"So, those names are so important in the history. Senator Spark Matsunaga, who came to our defense and preserved the island's integrity, Representative John Waihee, with his very first legislative effort successful, Kimo Mitchell, George Helm, and I'm sure there are others that should be mentioned. But the island is so important. It became the birthplace of the Hawaiian Renaissance. And I think of the many names, Dr. Emmett Aluli, who is just a true leader, a true leader and someone that has done so much, not just for the island but for the people of Hawaii. So, thank you for letting me say those words in support."

The Chair addressed Representative Thielen, stating:

"Representative, if it would be your desire, feel free to submit those names that you may have missed to the Journal."

Representative Thielen rose, stating:

"Thank you."

Representative Thielen submitted the following:

"Thank you, Mr. Speaker, for letting me add more names to the list of the people who helped in the early days of the struggle to stop the bombing of Kahoolawe and return the Island to the people of Hawaii.

"In addition to Dr. Emmett Aluli, who was one of the key leaders in the movement, there was Leslie Kululoilo and Uncle Harry Mitchell from Maui, Haunani Trask and Bo Kahui from Oahu, Sol Kaho'ohalahala from Lanai, Walter Ritte and Richard Sawyer from Molokai.

"The team of pro bono attorneys was led by Boyce Brown and included myself, Ron Abu, Michael Town and Joel August. The latter two became state judges. Mention should be made of the federal government's attorney, Roger Wiegley, who was professional and courteous through the years as he represented his government clients.

"In addition to Senator Spark Matsunaga, who helped the Protect Kahoolawe 'Ohana in its efforts to regain control of the Island, there was the young State Representative John Waihee who championed placing Kahoolawe on the National Register of Historic Places.

"Two archeologists assisted in documenting the importance of Kahoolawe, and were Dr. Patrick Kirsch and Dr. Rob Hommon. Local scientists who went to the Island with us included Dr. Wayne Gagne, Dr. Steve Montgomery and others from Bishop Museum.

"Mr. Speaker, it has been 35 years since the first access to the Island by small boats, the swim ashore pulling *ukana* and the inspiring feeling when stepping onto the soil of Kahoolawe. I respectfully apologize for not remembering and including all the names of the people who were part of this historic movement."

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

"Mr. Speaker, I rise in strong support. Mr. Speaker, I want to thank all three of the former, I guess you would call them, legislative *kūpuna*. It shows that a collective memory of the older people does make sense and it gives a real history. And I would encourage the Speaker Emeritus to speak up more, particularly for the young people to know what actually has taken place. So, one, we don't have to imagine reinventing the wheel, but we know what wheels have been invented.

"Mr. Speaker, the former speaker from Kailua said that we've left out a name. We left out President Bush. He was the one, Senior President Bush, 41, who actually ordered the stopping of the bombing. Which then with Senator Inouye and Pat Saiki, really went shoulder to shoulder and leveraged that. So those two are certainly deserving of credit.

"But the real thing is that now Kahoolawe is the first sovereign Hawaiian land mass. That is the significance for what's coming down to the future. That is something that is going to be historical, not only because of what we've said, but what's going to be coming when Hawaiian sovereignty actually arrives. So, it's a historical day. This is a good bill. Thank you."

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

"Mr. Speaker, in support. I just wanted to reiterate the great lack of debate on this issue and the outpouring of support, bipartisan. It's very rare in this Body that we see a spending matter that has gained support of both parties. My father was very involved in the PKO movement, I still have the t-shirts. He was also a Republican. So, I think he'd be very proud of what's going on tonight.

"I'd also like to urge, I think the Representative from Wahiawa is correct that the millennial generation will need to learn from the *kupuna* about what has been done and what we can do to further this movement, especially with the lack of funding that we'll be seeing from the federal government. The state really needs to take responsibility. I know in upcoming years the Kahoolawe Ohana are going to move to educate the public more, do more community outreach for our people and for visitors alike. So, they're going to have some expansion opportunities on Maui and I really ask, in the spirit of this conversation, that this Body support those upcoming initiatives. Thank you."

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

"Mr. Speaker, in strong support. First, I'd like to thank the good Representative from Hana who represents this island, Kahoolawe, as well, for introducing this measure. She reminds us that as a state institution, as legislators of this particular state, we have an obligation to protect public trust lands. Mr. Speaker, this is one of those lands. When you look at this trust fund, the Rehabilitation Trust Fund for Kahoolawe, it's running out of money. Probably within a year and half they won't have enough money for operations on the island.

"How are we supposed to support traditional and cultural practices? How are we to support healing going forward without us as a Legislative Body making that commitment to make sure that trust fund has monies for its operation of Kahoolawe? I think everybody should be cognizant of what our first and foremost obligation here is. And I know this might hurt pockets, but we must remind ourselves what our first obligation is to the host culture.

"I don't want to talk about how that island got to the position it's in. But people before us fought to get that returned back to the native culture. We still have many more fights to do on many other lands, and as we move forward maybe this trust fund will be open for other trust lands that will be coming back to us on their rehabilitation. Because again, at the end of the day, our job is to protect the public trust lands. And this is one of them, and I really want to thank the introducer of this measure. *Mahalo.*"

Representative Ing rose in support of the measure and asked that the remarks of Representative Thielen be entered into the Journal as his 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. 2101, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KAHOLAWE ISLAND RESERVE," passed Third Reading by a vote of 50 ayes, with Representative Nakashima being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 861-14) recommending that H.B. No. 2286, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2286, HD 3 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Strong reservations. Kauai is experiencing a crisis in the availability of affordable and workforce housing. The Kauai Housing Agency has been working diligently and aggressively to drive projects. They go about this by leveraging resources and applying their affordable housing policy where and when applicable.

"By allowing in essence DHHL to commandeer their affordable housing policy and earn affordable housing credits for uncompleted housing units and units with unverified housing incomes, contradicts Kauai's affordable housing policy, Ordinance 860. It is my hope that the Kauai County Housing Agency can enter into an agreement with DHHL that would address these concerns independently for Kauai. Thank you, Mr. Speaker."

Representative Hashem rose to a point of order, stating:

"Mr. Speaker, I'd just like to note that DHHL is not doing any housing on Kauai. So, this really doesn't affect Kauai. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2286, HD 3, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS," passed Third Reading by a vote of 50 ayes, with Representative Nakashima being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 863-14) recommending that H.B. No. 2357, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2357, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN KONOHIKI MANAGEMENT," passed Third Reading by a vote of 50 ayes, with Representative Nakashima being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 864-14) recommending that H.B. No. 2562, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2562, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. *Kako'o loa.* In strong support. *E ola mau ka 'olelo makuahine.* *Mahalo.* Long live our mother tongue, the Hawaiian language. Thank you."

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

"Thank you, Mr. Speaker. In strong support. I'd just like to include the comment by the good Representative from Puna and I ask that I be allowed to include written comments," and the Chair "so ordered." (By reference only.)

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. As stated in HB 2562, HD 1, *kūpuna* in the Waianae Coast have been working since the 1960s for what they had called a 'full-fledged' Hawaiian Immersion school in Nanakuli. In their attempts to bring about the importance of the Hawaiian Language and the impact of culture, identity and sense of place, the Department of Education shared this concept with other communities. Over time, the concept of an immersion school was taken from Nanakuli, and other areas on Oahu and the neighbor islands were given opportunities to be granted an immersion school.

"This measure is simply the first step at a 50 year journey for our dedicated ancestors, many who have since passed and some who are still alive. This bill will locate potential sites for a 'full-fledged' K-12 Hawaiian Language Immersion school. I would like to reiterate the words of the good Representative from Puna – *E ola mau ka 'olelo makuahine.*

"In closing, I would like to also thank both Chairs of Ocean, Marine Resources and Hawaiian Affairs, and Finance. I would also like to thank the *kūpuna* who continue to keep this issue on the front burner. It is with their insight that someday their dream will become a reality. For these reasons, I rise in support. Thank you, Mr. Speaker."

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

"Mr. Speaker, in strong support, wishing to insert comments into the Journal. Thank you."

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of HB 2562 HD 1, which establishes a task force within the Department of Education to locate potential properties, with a preference for a location in Nanakuli, on which to establish a Hawaiian language immersion school for the purpose of educating students from kindergarten to grade 12.

"Nānākuli's *ahupua'a* has been home to the highest concentration of native Hawaiians in the world for over 50 years. Furthermore, children from the Wai'anae coast constitute a significant portion of the student population at Hawaiian language immersion schools in other areas of the

state. While a Hawaiian language immersion program currently exists in Nānākuli, it only goes as far as grade six and is insufficient to meet the needs of the community. In fact, there is currently no Hawaiian language immersion programs available to serve students in grades 7-12 in Nānākuli or along the Wai'anae coast.

"Consequently, parents seeking to continue their children's education in a Hawaiian language immersion program must transfer their children to one of three schools in other areas of Oahu. These three programs are the only Hawaiian language immersion programs serving students in grades 7-12 on the island. The students in the areas of Wai'anae and Nānākuli deserve an accessible, sufficiently equipped facility for a Hawaiian language immersion program in order to continue to meet their educational needs and grow intellectually.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote in support of HB 2562. Thank you."

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

"In strong support."

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

"Thank you, Mr. Speaker. In strong support and may I ask that the words from the Representative from Puna be inserted into the Journal as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

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

"Thank you, Mr. Speaker. Strong support. Permission to enter comments into the Journal. Thank you."

Representative McKelvey's written remarks are as follows:

"HB 2562 serves to fill a void in our state's Hawaiian Language Immersion Program. Currently, the program is unable to serve 7-12 grade students in Nanakuli and along the Wai'anae coast. This abrupt end is detrimental to the youth currently in the program. By not extending the immersion program to the higher grade levels, it abandons the students that started from a young age. It is a disservice to these *keiki* who are forced to suddenly have to change gears and lose skills they had worked so hard for in previous years.

"The Hawaiian Immersion Program is for the purpose of the recovery and preservation of the iconic language of Hawaii. The Hawaiian Language is one of the great anchors of Hawaiian culture remaining in the islands. Language, Mr. Speaker, is a defining trait of a culture, and having the Hawaiian language disappear during our lifetime would be entirely unacceptable. As Hawaiian is one of the official languages of the state, the Legislature needs to put its support behind continuing this program. The Waianae Coast has the largest population of Hawaiians in the state and having an immersion school would be well served to support the Hawaiian community. By having an immersion school located there, the Legislature can continue the investment in the Hawaiian language and in our island youth."

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

"In strong support. I ask that the record reflect the words of the Representative from Puna as my very own. Thank you," 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. 2562, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE

IMMERSION," passed Third Reading by a vote of 50 ayes, with Representative Nakashima being excused.

At 3:07 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1616, HD 1
 H.B. No. 1684, HD 1
 H.B. No. 2101, HD 1
 H.B. No. 2286, HD 3
 H.B. No. 2357, HD 1
 H.B. No. 2562, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 866-14) recommending that H.B. No. 1900, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1900, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? At my law firm, I have represented destination clubs. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1900, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAXATION OF DESTINATION CLUBS," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fale, Ito and McDermott voting no, and with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 867-14) recommending that H.B. No. 2434, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2434, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Just strong support and permission to enter comments in the Journal."

Representative McKelvey's written remarks are as follows:

"Mr. Speaker, I fully support this measure for it streamlines the process by which the Department of Land and Natural Resources and the Hawaii Tourism Authority access and allocate the funds for the protection, improvement, and construction of natural resources and facilities around the state.

"The natural, historic, and cultural resources of Hawaii are a great legacy and irreplaceable treasures. This bill leads to investments in preserving and enhancing these resources, especially in historic places which helps to keep Hawaii's stories alive for present and future generations."

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

"Thank you, Mr. Speaker. Please note my reservations. My reservations stem from the fact that this bill affects the Special Land and Development Fund, which falls under the purview of the Department of Land and Natural Resources. Accordingly, this bill should have gone to the Committee on Water & Land. I note that it did not, it only went to Tourism and Finance. For those reasons, I stand with reservations. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2434, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 868-14) recommending that H.B. No. 2435, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2435, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 869-14) recommending that H.B. No. 736, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 736, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, in support. Mr. Speaker, this is a measure I think that has a potential of greatly benefitting the community that it's going into. I have had the pleasure of being part of a similar project that exists between Laie and Kahuku, and it has been a great advantage to the health and wellbeing of that community. I believe this measure will go a long way in providing those same benefits for that area. For those reasons, I'm in strong support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 736, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 870-14) recommending that H.B. No. 2563, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2563, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. I would like to thank the Transportation Chair for his insight in looking beyond this measure which originally focused on the Waianae Coast and now looks at the surrounding areas of the Leeward Coast and Central Oahu as well as those who have to travel to Honolulu on a daily basis from the North Shore. Reports from the Oahu Metropolitan Planning Organization states that travel times will double and triple in these areas.

"This new and improved measure looks into streamlining commuters so that the time they spend on the road lessens and the quality time spent with families and loved ones increases. I would also like to thank the Chair of the Finance Committee for hearing this bill and ask that serious consideration be taken to provide adequate funding for this bill as it moves forward. For these reasons, I rise in support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2563, HD 2, entitled: "A BILL

FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 872-14) recommending that H.B. No. 1120, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1120, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on potential conflict? In my private sector life I am a land use attorney. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1120, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 873-14) recommending that H.B. No. 1688, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1688, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1688, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Creagan being excused.

At 3:10 o'clock p.m., Representative Kawakami requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:14 o'clock p.m.

At 3:15 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1900, HD 1
H.B. No. 2434, HD 2
H.B. No. 2435, HD 1
H.B. No. 736, HD 2
H.B. No. 2563, HD 2
H.B. No. 1120, HD 2
H.B. No. 1688, HD 2

At this time, the Chair stated:

"Before we go to page 21, I just wanted to remind the Members, the Senate adjourned at 2 p.m. today. They're finished. Not that I'm hinting at all."

Representative Tokioka rose, stating:

"Mr. Speaker, point of clarification, it was 1:40."

The Chair then stated:

"1:40. I believe Representative Tokioka, 1:40 p.m., thank you very much."

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 875-14) recommending that H.B. No. 2626, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2626, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, I rise in strong support. Mr. Speaker, this is an ideal tax credit. It helps manufacturing. Heretofore, manufacturing has either been killed off, died, or otherwise missing in the labor force or the makeup of our economy. Mr. Speaker, it used to be where if you had a strong back and a strong arm, you had a job. But a lot of these jobs have either ceased to exist or have been supplanted and put overseas.

"The difficult thing is that to have manufacturing with such a small market like Hawaii, you need to incentivize it. And this bill basically incentivizes manufacturing by giving some tax breaks. It gives a chance for those who otherwise, I would say, probably only at the most have an assembly line here rather than manufacturing something from the beginning. In terms of an export, basically tourism is our biggest export. But this is specifically for manufacturing the things that we haven't done, this will give the incentive to do.

"Lastly, Mr. Speaker, I hope my good friend from Manoa will see this as one of the best examples to back a tax credit, if he knows any of them. Thank you."

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

"With reservations, Mr. Speaker. You know, some political parties believe in the free economy and letting business take care of themselves, and others believe that government should support every single business and pick the winners. I don't think government should."

The Chair addressed Representative Choy, stating:

"With respect. With respect. Colorblind as far as party lines. Let's keep it clean."

Representative Choy continued, stating:

"I keep forgetting what party my good friend from Hawaii Kai is in. But, sometimes when government picks winners like high technology, even agriculture, or even this manufacturing, government does not have a good record on picking winners. So with that, I'll stand in reservations. Thank you."

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

"With reservations, brief comments. In a state where we need a balanced budget, whenever we give an income tax credit, we either need to cut a program or raise taxes. So that essentially has the same effect as government spending. When we're discussing manufacturing and bringing it back to Hawaii, it seems like something I would read in the Hawaii House of Representatives Journal from 1950s or 1940s.

"This is a dying industry, not because of taxes, not because of old regulation, but because of technology and automation. Even in the outsource nations, if you go to these factories, it's mostly robots going around. So that's not going to provide a lot of jobs. The retailer, Amazon.com, makes billions every year, of course. They only hire 60,000 employees. Now, if that were mom and pa shops, it would be more like 2 million employees.

"So, that's manufacturing, that's the future of this industry. Most economists agree that when you want to incentivize businesses, or infant industries, or as the good Representative from Hawaii Kai calls it, 'zygotes.' But for failing industries, supporting those or giving lifelines via subsidies, which essentially that's what this tax credit is, goes against most free market economist theory. Thank you."

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

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

"Mr. Speaker, in support, brief comment. When a Marine picks on my Army battle buddy, I call in the troops over here, call in the backup, Mr. Speaker. And I have to say that someone that I very much respect in the political arena said, 'this is what government does. If something moves, they regulate it, and if it still moves they tax it, and when it stops moving they subsidize it.' Mr. Speaker, this is one of those things.

"When an industry has been beat into the ground because of, in essence, over taxation and over regulation, Mr. Speaker, we kind of get remorseful in the public sector and we try and do what we can to get somebody back up on their feet. And this is an effort, Mr. Speaker, to broaden, once again, we go back to issues that we've talked about before as far as diversifying the economy of the State of Hawaii, which is critical to the health and wellbeing of this great state. This is an effort, Mr. Speaker, that helps do that. And with that, Mr. Speaker, I say, 'Go Army!'"

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

Representative Wooley's written remarks are as follows:

"I have reservations but support the intent of this measure – which is to spur economic growth in the manufacturing sector for our unique island economy. However, as so many policy makers and think tanks have recognized, tax credits, especially when provided liberally with few specifications or limits, often turn into fiscal disasters. Government representatives should not be picking which businesses will be the economic winners. It really is better to let the market operate without government interference as much as possible.

"The testimony of the Department of Taxation, DBEDT, and the Tax Foundation all identify the same kinds of problems with this bill; which is really lacking the kind of detail or provisions for fiscal control that should be required of any tax credit. If this bill were to become law, it will create significant risks to our budgeting process and cost us an unknowable amount.

"You know, we are so often in a rush here at the Legislature to do something to help business, but when we rush, when we fail to think clearly and think ahead, we push through incomplete laws that expose our budget to unexpected extremes and put all taxpayers at risk. Simply said, we will be subsidizing businesses that don't need help; we really don't know what we will get in exchange for the tax credit; the definition of manufacturing is overly broad and vague; and we don't even know what the maximum cost to us will be.

"Annual legislation to hand out tax credits to the business interests of the day is tempting for legislators – we all want to support a strong economy and a pro-business environment. The devil is in the details. There are few details in this bill, and in its current form, there is no question in my mind that if this bill were law, the state would face tremendous budgetary challenges and we will not get the economic results we are after. In addition, when selecting one type of business over another to receive tax credits, we are telling the excluded businesses that they are not as important, and we put them at a competitive disadvantage. Tax credits are really not business friendly because they exclude almost all businesses – only a few select groups can qualify for the tax credit."

Representative Ward rose to respond, stating:

"Thank you, Mr. Speaker. *Makemake au mahalo la luna Manoa. Mai kona i pi hau ka ikaika. Mau ke ea nua au lau tax credits hulo maika'i loa.* Thank you."

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

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

"Thank you, Mr. Speaker. With reservations. Well, as everybody knows in this Chamber, I'm not adverse to tax credits, having authored a few of my own. But again, manufacturing, Mr. Speaker, to have manufacturing you need access to raw materials, Mr. Speaker. Raw materials such as steel, magnesium, cobalt, argon, zion, all the things you can't find in the State of Hawaii, but elsewhere.

"So, this is something actually that was looked at by the Cayetano administration. How do you build a manufacturing base in Hawaii? And those logistical realities were what basically dissuaded the administration at that time from pursuing an aggressive building of the manufacturing sector. But one thing that hopefully, as this bill moves onto the next Chamber people could look at, is what they call recombinant manufacturing, or manufacturing new items based on other items that are already in existence.

"By getting manufactured goods from Asia and reassembling them into other goods in Hawaii, we provide an economic incentivization for this activity, and create a gateway of business opportunity for Asian countries, which normally have tariff restrictions on these goods coming into the country. Thank you very much."

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

"Thank you very much, Mr. Speaker. In support. Although I agree with my colleague from Manoa, that government isn't very good at selecting winners, this tax credit has some good things in it. I have always had problems with economic tax credits that are perpetual, but this one has a sunset, this one has a cap, and this one sets a specific purpose. So, with those reasons and several others, in support. Thank you."

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

"Thank you, Mr. Speaker. In support. I just want to ask that the words from the Representative from Upcountry Maui be inserted into the Journal as if they were my own. And I'd like to thank the fine introducers that introduced this bill. Thank you very much, Mr. Speaker," and the Chair "so ordered." (By reference only.)

Representative Ing rose to respond, stating:

"Second time. I just wanted to adopt the words of the Representative from Lahaina as my very own. Also to add that, manufacturing can work through assembly if you get raw materials from different places, but that will require a lot of shipping goods to Hawaii, which is very cost prohibitive. Thank you."

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

"Mr. Speaker, in strong support. Let me first say this. I want to compliment the sponsor of the measure because that particular individual has the insight. America, Hawaii, is losing that edge in manufacturing. Globally, everything that you consider today that you have, has been imported from some foreign country. All of our steel is imported from a foreign country.

"This is just a start as far as having this debate on the Floor of the House in regards to, can Hawaii manufacture things? Thirty-eight years ago, 40 years ago, there was a lot of manufacturing done here in the State of Hawaii. Do you folks know where it occurred? It occurred in our foreign trade zones and subzones that we have today. The manufacturing at the

foreign trade zones was there primarily because our local companies here did not have to pay the duty or tariff on imported resources that we needed to manufacture those goods.

"This particular measure is fantastic because for those of you who visited Japan with the Department of Business, Economic Development and Tourism, they did a fantastic job in promoting, and marketing, and advertising our garment industry. It doesn't have to be assembly line, Members of the House. It could be a mom and pop, where I shared with the Representative from Upcountry Maui, that farming family that's doing the goat cheese. That family that does that purple flower, I don't know what you call it. Those are being produced and manufactured here in the State of Hawaii and being exported.

"We have to be aggressive in looking at Hawaii as being not an importer of all goods, but an exporter, to balance the trade and money that comes into the State of Hawaii. That's Economics 100. We export more of our capital out of state in the acquisition of fossil fuel, food, and what we have here today, what we eat. What are we exporting to balance that trade? Simple.

"The Representative from Waikiki has a big job ahead of him. Why? In the next two to three years, and it has already occurred, that tourism has plateaued. So it's a flat market for the next two to three years.

"Secondly, the other economic driver of the State of Hawaii, defense spending, the military. I don't know what will happen, but I am very much concerned, Mr. Speaker, because of the cuts that are occurring in the branch of the Army.

"As these particular drivers of our economy plateau or just flatten out, there will be no growth in our gross state product. The past five governors have looked at all ways of diversifying the economy. And for me, the challenge to today for the millennial generation, is this. How can you now have a vision, have a dream, of forecasting what you'd like to see in the diversification of this state that we all dearly love? Diversification, anybody can say that. But at the end of the day, what would you really like to have?

"Some of the projects that I have seen that have gone on the wayside, which I thought would be very beneficial, was the regional biohazard lab. Nobody wanted it in Pearl City, nobody wanted it in Manoa, nobody wanted it here and there. But that particular laboratory would have been a great asset in the development with working with the Center for Disease Control."

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

Representative Say continued, stating:

"Thank you very much. It would give us the opportunity of being a part of the Center for Disease Control, and it would be a part of the National Institute for Health. That particular project we lost. High paying jobs that here on the Floor of the House we all talk about in bringing our classmates, our neighbors' grandchildren back to the State of Hawaii in jobs that they would be paid the highest.

"Manufacturing, Members, gives us a slight chance of sustainability and survivability in this global market. And for all of you, you folks have done a tremendous job in looking at all the ways in alternative energy in lowering the cost to our general public at large. But it does take time, it's not going to be overnight.

"So, manufacturing, Members, I say to all of you, should be a part of the overall equation, because that's where you'll get the export of goods and the monies coming back into the state, to be circulated in the state. So that's why for the sponsor, I want to congratulate you. It is changing the thinking values of what we have today, that we're not giving up on manufacturing. But we should continue on to look at ways that our younger generation will be the scientists and the explorers of the future in sustainability and survivability in this global market. Thank you."

Representative Hanohano rose to respond, stating:

"*Mahalo ho'omalu 'ōlelo.* Thank you, Mr. Speaker. I would like to thank all the speakers that have spoken. I'm still in *kanalua*, however, I'd like to just share a few of the manufacturing things that we have done in Puna. Being from a strong Hawaiian ancestral family, my grandparents have already had manufacturing things. They did the *pulu*, the fern for pillows, and that was shipped to the mainland. We also did the *'awa* that was shipped to Germany because *'awa* is used in our aspirins today. We also did the goat skins that was sent to California for different purposes. We also had *lau hala* goods. We also had an *'ōhi'a* logging company in Puna, in Pahoā.

"So it's not like manufacturing is an old thing here. We just have to revive it and we have to look at all of the resources that we do have in our communities. I'm really proud to be from Puna, because we have a lot of citrus fruits. We have papayas, we are the state capital of papaya. We have a lot of flowers, we have a lot of anthuriums, orchids, foliage. And these are all exported to the mainland.

"But however, because we haven't been keeping up with the invasive species, which have been let through to agriculture gateways, now we suffer some of these setbacks. But however, in my area in Puna, we are very proud to have produced a lot of things and we are a sustainable community. *Mahalo.*"

Representative Fale rose in support of the measure and asked that the remarks of Representative Say be entered into the Journal as his 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. 2626, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Ito voting no, and with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 876-14) recommending that H.B. No. 2011, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2011, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In strong support and may I request permission to enter written comments in to the Journal? Thank you."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in support of this measure. This bill establishes the Agribusiness Land and Facilities special fund within the Agricultural Development Corporation (ADC) with the intent of supporting food sustainability and self-sufficiency. This bill also authorizes the ADC to subdivide agricultural lands and requires establishment of an agriculture subdivision code, and authorizes ADC to issue revenue bonds to acquire certain agricultural lands.

"As the most geographically isolated state in the country, Hawaii imports approximately 92 percent of its food. With this in mind, we need to look for ways to increase local food production. By authorizing this fund to the Agribusiness Development Corporation, we will be able to maintain the operation and management of Ag lands that have been identified as supportive of the agricultural conditions necessary for production.

"Agriculture has always had a special place in the history of the Hawaiian Islands and continues to be an important industry, generating \$2.9 billion to the state's annual economy and directly and indirectly providing 42,000 jobs. We need to do all we can to support it.

"It is for these reasons that I introduced legislation both last year and this year to achieve these specific ends. I would like to applaud the Chair of the Agriculture Committee as well as the Local Food Caucus for recognizing

the inherent potential in this concept and championing the ideas as if it were their own.

"For these reasons, Mr. Speaker, I rise in support of HB 2011, HD 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2011, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 877-14) recommending that H.B. No. 2255, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2255, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY PERFORMANCE CONTRACTING FOR PUBLIC BUILDINGS," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 878-14) recommending that H.B. No. 2169, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2169, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Oshiro rose and asked that the Clerk record an aye vote with reservations for him, 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 Har then rose to disclose a potential conflict of interest, stating:

"May I please have a ruling on a potential conflict? In my private sector life I do practice construction law. Thank you, Mr. Speaker," and the Chair ruled, "no conflict."

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

Representative Lowen 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. 2169, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM STIMULUS INCENTIVES," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 879-14) recommending that H.B. No. 1594, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1594, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

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

"Reservations and brief comments. I do support this, as far as it goes towards renovations. But as far as a tax credit for new construction, I would just first want us to look at the issue of increasing occupancy in our existing facilities. Thank you."

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

"May I request a ruling on a potential conflict? In my private sector life I am a construction law attorney. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1594, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 880-14) recommending that H.B. No. 2170, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2170, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? In my private sector life I am a construction law attorney. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, please note my reservations. And as you can tell, yes, I have some serious reservations on us creating new tax credits. We need to mind our p's and q's with our pennies and nickels. Thank you very much, Mr. Speaker."

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

Representative Wooley's written remarks are as follows:

"I have reservations. What is the purpose of giving tax credits to promote the building of more hotels? Don't we need houses more than hotels? The tourist industry is critical to our economy, of course. Thank goodness we have so many great hotels and different options for people to stay when they come visit. Do we need more hotels because there is not enough?"

"I recall just a few short years ago the oversupply of hotel rooms. The industry was suffering, firing workers, and going bankrupt because tourists couldn't afford to travel. The hotel industry is subject to the ebb and flow of the tourist industry; we will always have highs and lows. In the low period, hotels will struggle to fill their rooms. If we build more hotels,

there will be more rooms empty when the tourist economy is struggling (i.e., anytime oil prices go up).

"In addition, the hotel industry is not fulfilling the promises made to the people of Hawaii — hotels were going to create jobs for local people. That concept lasted a few years, maybe a few decades, but we all now know that the money in the hotel industry is being maximized by squeezing out the workers. We see the workers now coming to us, asking us, the Legislature, why there are no more jobs in the hotel industry, especially when there are plenty of hotels. We now see that to maximize profits, hotels are paying fewer workers, they are being fired or never even hired. So let me ask again, what is the purpose of giving tax credits to promote the building of more hotels?"

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

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

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

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

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

"Mr. Speaker, in support. To rebut some of the concerns, permission to insert written comments. Mr. Speaker, about a 175,000 jobs are directly or indirectly related to tourism, and it's about 20 percent of our economy.

"As Speaker Emeritus just mentioned, the tourism numbers are about to plateau for a few years. And one of the reasons to help incentivize people from around the world to come to Oahu and then visit the neighbor islands is what a lot of hotel managers and operators say is the normal path there. Coming to Oahu first as a first time visitor, then learning of the neighbor islands, is to let's say resuscitate Waikiki. And in order to do that, we need to create more rooms, especially rooms in the \$150 a night range to entice those new visitors. And that is in part why I stand in favor of these measures. Thank you."

Representative Brower's written remarks are as follows:

"Tourism is 20 percent of our economy. The purpose of this bill is to invigorate Hawaii's stagnant hotel construction industry. The number of visitors coming to Hawaii has plateaued, largely due to the lack of modern facilities and accommodations. If Hawaii is to maintain its status as one of the world's premier visitor destinations, improvements must be made. Providing a financial incentive to the industry in the form of a tax credit is one way of ensuring that the necessary improvements will be made."

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

"I speak very strongly in favor of this measure. It should be mentioned that yes, hotel is flat now and it's basically because they don't have enough rooms. They right now need about 400 rooms a year for the next eight years or so. Right now, a square footage to put up a hotel is about \$400 a square foot, to put up a hotel. So it's almost impossible to build that type of hotel, which will result in a minimum of \$400 a day rental.

"A credit like this would assist in bringing the cost down to possibly around \$200 a day and make it marketable. But now, unless we do something to provide additional rooms for the hotels or condo hotels, for that matter, we are going to continue to be flat. Let's not delude ourselves, hotel is the major industry, it's the driver that we have that provides the money for the schools, social services and whatever we need. So we cannot look at this as a big bad bugaboo who's too big. Look at it as the one that provides the jobs and the services, health, welfare, *et cetera*. So please, support this measure. Thank you very much."

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

"I rise in support, Mr. Speaker. In the spirit of bipartisanship, being that there were so many reservations, I feel compelled to say a couple of things. One is from the point of view of the international visitor. I've had visitors, friends, from different parts of Asia, in particular China and Southeast Asia, who very diplomatically but very frankly said, 'Waikiki is seedy, it's old, it's not modern, it doesn't compare to what's going on in Asia.'

"Mr. Speaker, we have to wake up, this is a very competitive industry. It's the biggest industry in the world. The hospitality industry is bigger than oil, bigger than all the other stuff. But it's very competitive, and that's where taxes, prices and hotels and the availability of hotels and the quality of hotels. When somebody tells you it's seedy, and I'm wearing an APEC pin right here. We did some face-lifting, we did some shining, we did some airport corridors, we did a few things. But then we kind of kicked back and relaxed. We can't kick back and relax.

"When's the last time we built a new hotel? Who can remember when was the last time we built a new hotel? Because there hasn't been the incentive to do that, there hasn't been the land, and Disney is a resort, not a hotel, *per se*.

"So, Mr. Speaker, these kinds of incentives, and which by the way, you compare incentives for investment in marketing and infrastructure to Singapore, we are pikers compared to what's going on in the rest of the world. We are pikers. The difficulty is, we don't have the vision long enough and far enough to see that we've got to have an infrastructure. You're going to have 8 million visitors, you've got to be able to accommodate them in competitive perspectives from other destinations. And this is the way that I think Mike McCartney and the HTA and the others are thinking, that there's a lot of different places that people can choose to go to.

"So for new hotels, refurbishment of hotels and making our industry viable and vibrant, basically this whole page was about that, Mr. Speaker. So lest we forget that there's a real competitive world out there, and people don't have to come to Hawaii, they don't have to come to America. We should not just rely on our good looks, we've got to rely on our brains, and our brain says we've got to build new hotels and renovate those we have. Thank you, Mr. Speaker."

Representative Souki rose to respond, stating:

"Thank you very much, Mr. Speaker. The eloquence of the Representative from Hawaii Kai astounds me. So, therefore I must have his remarks be inserted as my own," and the Chair "so ordered." (By reference only.)

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

"Thank you very much, Mr. Speaker. In support. Just a quick comment. Maybe going forward, what we need to do is maybe put a few provisions on this credit and kind of narrow it to supporting some of the investments that this state has made in the past, maybe making sure that these new hotels are in the area of the convention center. To date we have spent \$346,682,113 invested in our convention center. I think with that big investment we should be utilizing it a little bit more and maybe giving our incentives with our investments. Thank you."

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

"Mr. Speaker, I rise in strong support. May I give the Members of this House a different perspective, and it's going to be based on the global financial market. In the '50s and '60s, a lot of hotels were built with developer's capital. The Sheratons that you see in Waikiki, the Outriggers, *et cetera*, some of them are on leased land. But more importantly, the '50s and '60s, the evolution was hotels.

"Here comes the '70s and '80s, for those who were here, what was that evolution? Time shares. Time shares. You did not increase the inventory of hotel rooms, you created time shares. Where I had a petition two weeks ago saying, 'time shares are no good.' You're not providing the jobs, as

what the hotel industry is providing the jobs, in the house cleaning, *et cetera, et cetera*.

"Now we are in the 21st century, 2014, 2000. For the past 14 years, I think all of you have seen the conversions and the development of condotels. I believe the Representative from Upcountry is correct. If we could just focus this last measure around the proximity of Waikiki, maybe it will help us attract more of our conventions and meetings that we sorely need at our convention center that we have today at the Ala Wai. If not more hotel rooms, I don't believe we'll be the diamond in the rough in attracting those large conventions that we, who are here in support of the convention center, will see that we did not realize that dream.

"So yes, the Representative is correct, from Hawaii Kai. There have been new hotels, but in other parts of the island. But in the proximity of Waikiki, none whatsoever. And I have to be one to say, yes, I'll bite the bullet for hotel renovations or new hotel construction. Because we did it, the past Legislature. And it has benefitted the people of the State of Hawaii by the tourist industry that comes to Waikiki first and then goes on to the neighbor islands.

"So I just wanted to share that thought, because it is so important that you will not find global investors today investing in hotel units that are going to be brand new. You want it in place, you want it in operation, so you can recoup a percentage of what your investment is. And if you think condotels will be the answer for our tourism industry, I don't know how many of you signed that petition, but I did. And that was in regards to the Ilikai hotel. And I do support time shares, but the number of people working in a time share unit is totally different from a hotel unit.

"That is why I'm sharing with the Members, Mr. Speaker. It is all based on finances. And now today, it is global finances. Not local, the Guslanders, the Pfeiffers, *et cetera*, or the Walker's Amfac. This is a total new ball game that the millennial generation will have to address with the competing interest globally.

"So in closing, why do I support this? Because I want to see the convention center filled 11 months out of the year with a one month respite of renovations and cleaning the facility to what it is. So, that's the reason why I'm voting up very strongly, so nothing against my friends who are with reservations. Thank you."

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

"Mr. Speaker, in support, brief comment. This is very relevant to the comment that I made earlier of, if something moves we regulate it, if it's still moving we tax it, and if it dies, when it stops moving then we subsidize it.

"Mr. Speaker, we've had long extensive conversations about increasing the TAT. We've talked about the whole host of regulations. We have taxed and regulated an industry that we're starting to see die. And now we're having to step in after we soak them and squeeze them for every penny we can get out of them. Then we have to come back in, and in order to save the industry we say, 'oh my goodness, we have to give these guys tax credit or we're looking at a plateauing industry that's not going to survive.'

"Mr. Speaker, I'm pretty sure back in the day they never thought that sugarcane would go away, they probably thought that pineapple would never go away. Mr. Speaker, tourists can go away. If we're not more careful in the way which we approach this, we're already starting to see. Now we're in the phase of, well it's kind of slowing down, it looks like it might stop moving, so we've got to start subsidizing it.

"If we're not careful, Mr. Speaker, we're going to hurt 175,000 people who work in this industry, and we're starting to see the fruits of over regulation and over taxation, Mr. Speaker. But for those reasons, I'm still supportive of helping the industry stay on its feet."

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

"Mr. Speaker, I'd like to stand in support and a few comments. I believe this bill will have a tremendous impact, possibly, in our Banyan Drive on

the Big Island in Hilo. Many in the community have been working tirelessly to try to improve Banyan Drive, to bring back the days, about 30 or 40 years ago, when Banyan Drive was a thriving tourist attraction with hotels and rooms available for people to come and visit the volcano and our other amenities on the Big Island.

"Today, we have very few hotels. In fact, when the Finance Committee went to visit the Big Island, I cautioned them on where we could stay where they would feel comfortable. So I think this is an opportunity to look at the possibility of new hotels being built or renovated in the Banyan Drive area, and I fully support this bill. Thank you."

Representative Fale rose in support of the measure and asked that the remarks of Representative Ward be entered into the Journal as his 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. 2170, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

At 3:51 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2626, HD 2
H.B. No. 2011, HD 1
H.B. No. 2255, HD 1
H.B. No. 2169, HD 1
H.B. No. 1594, HD 2
H.B. No. 2170, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 881-14) recommending that H.B. No. 1618, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1618, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPOSITION OF THE BOARD OF LAND AND NATURAL RESOURCES," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 882-14) recommending that H.B. No. 1902, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1902, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 883-14) recommending that H.B. No. 2282, HD 1 pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2282, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 884-14) recommending that H.B. No. 2410, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2410, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 885-14) recommending that H.B. No. 2293, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2293, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 886-14) recommending that H.B. No. 2294, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2294, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Creagan being excused.

At 3:52 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:53 o'clock p.m.

At 3:54 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1618, HD 1
H.B. No. 1902, HD 2
H.B. No. 2282, HD 1
H.B. No. 2410, HD 1
H.B. No. 2293, HD 2
H.B. No. 2294, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 888-14) recommending that H.B. No. 2442, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2442, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Fukumoto 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. 2442, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE CONTRACTS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Hanohano, McDermott and Ohno voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 889-14) recommending that H.B. No. 2490, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2490, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of HB 2490, HD 2, which enhances the juvenile justice system through a variety of initiatives that seek to strengthen the system as a whole. This proposal is the result of a working group comprised of representatives from the executive, legislative and judicial branches of government as well as key stakeholder groups from law enforcement, the prosecutors and public defenders offices, and community service providers.

"This measure will give our troubled youth here in Hawaii a better shot at becoming well-adjusted adults. Adults, who can contribute to our society and our local communities in meaningful ways. By concentrating secure bed space on serious juvenile offenders; strengthening disposition, adjustment, diversion and services available for those offenders; as well as increasing interagency collaboration and establishing a temporary oversight committee, we are providing those juveniles, who would normally fall through the cracks, a safety net to keep them from moving further down a bad path into a negative lifestyle.

"This measure is not only for the benefit of Hawaii's youth. In fact, everyone benefits when public safety can be strengthened and when children are given the tools to reach healthy and productive futures.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote in support of HB 2490, HD 2. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2490, HD 2, entitled: "A BILL FOR AN ACT RELATING TO JUVENILE JUSTICE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 891-14) recommending that H.B. No. 1971, HD 2 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1971, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"In support. Charter school students are not second class citizens and should not be treated as second class citizens. Similarly, by extension, charter school teachers and administrators should not be considered second class citizens. The first charter school in the State of Hawaii was in my district, Waiialae School. And some of those teachers who started with the first charter are still there and have sacrificed greatly to make Waiialae school a school of excellence. I think that they should be given first class status. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1971, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 892-14) recommending that H.B. No. 1999, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1999, HD 3 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I'm standing in strong support of House Bill 1999. Thank you. Mr. Speaker, this measure will give the Legislature the opportunity to re-examine the utility business structure and long term plan, and ascertain if there may be better entities that can serve the needs of Hawaii's residents.

"Mr. Speaker, this is very important because I reference a publication titled 'Business Insider' that just appeared February 26th. The title is 'Tesla Just Took Its First Step Toward Obliterating The Power Companies.' And in this it talks about Tesla's plan to start pumping out lithium ion batteries like 'M&M's' at its planned gigafactory. And obviously, that's big news for electric vehicles, as that should bring down the cost of those vehicles. But more important, it has huge significance for renewable energy.

"Power storage is the key to unlocking wide-spread renewable energy. And for renewables to be truly cost competitive with existing power sources, they need to be able to provide a continuous current flow, something difficult to achieve when the wind isn't blowing or the sun isn't shining. So I go back to Tesla's popping out 'M&M's' of the battery storage.

"And then a report from the Rocky Mountain Institute states, 'Whereas other technologies, including solar PV and other distributed resources without storage, net metering, and energy efficiency still require some degree of grid dependence, solar-plus-batteries enable customers to cut the cord to their utility entirely.' That means cut the cord with Hawaiian Electric. And then they note, 'The coming grid parity of solar-plus-battery systems in the foreseeable future, among other factors, signals the eventual demise of traditional utility business models,' these authors wrote.

"And Mr. Speaker, unless Hawaiian Electric listens and changes its business plan, it will be obliterated by companies like Tesla that are going to pump out the batteries like 'M&M's'. So, this bill is extremely important to allow the Legislature to work with the utility. It has to change, and on its own, it's not doing that. So I strongly support this measure. Thank you."

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

"Mr. Speaker, I rise in support of the measure. I would hope that all of the young people in this Body will be really on the cutting edge of new ideas, because this actually sets up the structure by which we can change the thinking, change the paradigm. I know my paradigm has been, let's get away from the mainframe IBM mindset of the old, into the PC. The old IBM is the present grid, the PC are the micro-grids that every house with solar and batteries, or PV and batteries can make.

"If there is not a quick change in adaptation, it's possible that HECO will have everybody offline, because of the 'M&M' factor here. And they'll wonder, well what happened to us? Mr. Speaker, times change. Darwin said, 'it's not whether you're smart, it's not whether you're strong, it's whether you adapt to the situation.' And I think this legislative oversight or task force will hopefully speed up this whole element of alternative energy and make HECO adapt to what are the people's needs.

"Quite frankly, Mr. Speaker, since 2008, costs have almost doubled. In 2008 is when this Body and the Legislature or the Governor's office said, we are going to have renewable energy and it's going to come in 70 percent in 2020, 2030. Mr. Speaker, all the people have seen is their bills increase. So, we've got to do better if this is kind of an insert of our *mana'o* if you will. But I hope it's the young people who take these new ideas, the new technologies and really take it and run with it. Because we have the potential, not only to be the best in the nation, we have the potential to be the best in the world in terms of renewable energy. Thank you, Mr. Speaker."

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

"Mr. Speaker, in opposition. A couple weeks ago, in preparation for meal, we went and shot a 734 pound pig. Now, we initially took a .22, and it took six shots with the .22. A pig that size, we might as well have been throwing mosquitoes at it, until we got a .30-06 and finally did the job. Mr. Speaker, the previous speakers, what they had to say is an attempt to try and help the measure. It's bringing a .22 to shoot a 734 pound pig. All it's going to do is make the pig unhappy.

"This doesn't deliver what we need. This isn't going to set the precedence that we need as far as making sure that HECO is prepared for delivering the energy of the future and making sure that we're laying the platform for success, as far as our energy policies go.

"If we're going to do this, let's approach it in a way where we're actually working with the utility, they're going to have to be a partner with this. Mr. Speaker, I think maybe for too long we've maybe demonized the utility company, when we're going to have to work with them to resolve the issue. And if we don't reach out, if we don't build those bridges to make sure that we're on the same page working towards the same goal, I think we're going to fall short and the people of Hawaii will get hurt in the process, Mr. Speaker. For those reasons, I think this measure doesn't help us achieve that, and I'm opposed to that. Thank you."

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

"Thank you, Mr. Speaker. In support. Here in Hawaii we pay three times the national average for our energy costs, and those costs have doubled in the last five years. Let me say again, those costs have doubled in the last five years. And that's subject to the volatile price of the fuel that we import on a regular basis, and that's something I think we can all agree we need to move away from.

"But there's a changing market at hand here, which is looking beyond our own RPS goals and the clean energy we want to move to. There is a transition in technology that for the first time in 100 years is changing the very face of the utility model and its business model and how it makes money.

"There is a study that has looked into this, as some of the previous speakers have mentioned, and it found three basic things. The first expectation is that customers are expected to see favorable deflection economics in 10 years. And what that means is that in 10 years, nationally, customers are expected to reach parity and be financially incentivized to leave the grid.

"Here in Hawaii, because we pay three times the national average in costs, some argue we have already reached that point today. And there are companies out there right now, some solar companies in fact, who are changing their own business model to begin offering packages that include battery storage and other alternatives to completely remove people off the grid. And as the cost of electricity from our traditional utilities goes up, that incentive to leave goes up, and the cost to get off the grid and save money is more and more in the customer's favor.

"The second thing is that utilities will see significant losses. And this is true, we're seeing this already. Already we're getting reports, which we've seen through the PUC and other places, that indeed the financial infrastructure and the financial future capacity of our utilities is uncertain at best.

"And three, it found that there will be the demise of traditional utility models. Which means, the traditional utility, which has for nearly a century and longer in some cases produced money by generating energy and selling it, will no longer be viable in the face of people generating their own energy and saving money themselves.

"Now we've talked about this a little bit here in the state. This is the first year that this debate is really coming up into the public fore. And in public hearings, we have asked our utilities to come to the table and answer, what is the business plan? What is that evolution? What does it look like into the future? And what we've got at the table, in front of cameras, is no answer. Literally, we have no answer. Or two, we're going to start charging people to leave the grid and up costs to make up the difference for people who are leaving us.

"That is something that I think is absolutely not anywhere we want to go. It is not a real solution and it is a band-aid, a very painful band-aid, that I think is being proposed here.

"The IRP studies, the planning process that the utilities have gone through, has been found to be in some cases inadequate and some cases missing pieces of the puzzle.

"Right now the utilities, on the other hand, are on the verge of signing long-term PPAs, looking at decades into the future to lock in costs of energy, which may be beneficial, maybe not, depending on the energy

environment in those decades down the road. We just, quite frankly, don't know enough to determine either way. But we can, before these utilities and these contracts get locked in, ask ourselves which way we want to go.

"The PUC has stated, 'in light of the changing landscape and complexity of the modern electric system, a review of the fundamental electric utility customer relationship is warranted.' And that's what this bill is about.

"It is the responsibility of the Legislature and the sole responsibility of the Legislature here in the state to issue franchise agreements for utilities. It is up to us to take a look at what those agreements are going to look like into the future. And these questions right now are beyond the scope of the PUC, which is why this bill is before us and why it's going to have to be something that we address.

"Already to date, 20 other states have started to ask these questions and have passed legislation in 19 of them to look at a fundamental paradigm shift in the business model of their utilities. Options could include, for example here in Hawaii, do we move to a utility that acts as a distributor of electricity rather than a generator? Do we have multiple utilities to encourage more competition to lower prices? What do these options look like? We've never before seriously vetted these questions and asked them. And we've certainly never gotten answers.

"Mr. Speaker, this is the first time in a hundred years that we have an opportunity, a historic opportunity to chart the next hundred. It's going to look radically different than the hundred that came before, but it's our responsibility to do that. Our utility at best has a decade of life left in its existing business model before it faces severe financial consequences. At worst, they've got a few years time at most. We owe it to our constituents to change the status quo, because we're all paying and we all know the high cost."

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

Representative Lee continued, stating:

"Thank you. We all know the high cost of electricity that we're all paying now and we're expected to pay for some time to come. But failure to adapt will only increase those costs for ourselves and our constituents, years into the future. And we cannot let that burden fall upon ratepayers or taxpayers, should the utility model fail and need to be bailed out. It is up to us, and this is the first step in that direction. Thank you very much."

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

"Thank you, Mr. Speaker. In support. I'd like to request to have the words of the previous speaker entered in the Journal, and just a few brief comments.

"So, as we've heard from other people, this report recently came out that talks about grid parity, and that is when it becomes, actually, equal for customers to go off the grid. It'll be equal in cost and equal in reliability as it is to stay on. And we've reached that already in Hawaii, we're the first state to reach that for commercial, and the prediction is for 2022 for residential. So as we approach that day and more people go off the grid, that's going to lead to even further increasing prices for those that are still on the grid.

"I'll just read a quick paragraph from this report, which just states that, as this begins to happen, new market realities are creating a profoundly different competitive landscape as both utilities and the regulators are challenged to adapt. Utilities thus must be part of helping to design new business revenue and regulatory models. It's basically, adapt or the utility won't be able to remain in business.

"So I think that this bill that we're discussing is something that will help push things in that direction, and that will be for the good of those who are going to be stuck on the grid and aren't early adopters and are going to have to pay increasingly high rates. Thank you."

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

"Mahalo ho'omalu 'ōlelo. Thank you, Mr. Speaker. *Kako'o 'ole. In opposition. Ho'o komo kana 'ōlelo mai ka luna maikaainana mai Laie i loko ka puke hale luna maka'ānana no ko'u mana'o. 'Oia ku ka mo 'ōlelo e pili ana ka ho'o make ana o ka pua'a. Pololei kana 'ōlelo.*

"I'd like to have the words of the Representative from Laie as my own, especially the story about the pig. I agree with the story, because I've been in that same situation. Shot a pig with a .22, thought it was dead. It looked like it was dead, wasn't moving, felt it and all. Left it, came back 10 minutes later, and it was gone. So, it's a true story. Well, it doesn't matter what size it is, because a .22 does not kill a pig, unless you're going to cut the throat right after. That's what I forgot to do, okay. I left the knife in the truck so I had to go back and get it, so, but that's okay.

"Well, they talk about all of these things, about the electric companies trying to do all of the things that they say they are doing. I have the only geothermal community in the State of Hawaii, and we haven't saved a penny, a nickel. We keep spending more and more on our electric bill and we still pay the highest rate, although we're on geothermal. And this is 20 years ago. So I cannot believe what they want to do, so that's why I'm still in opposition of what's happening. And I agree with my colleague from Laie. *Mahalo.*"

Representative Fale rose to respond, stating:

"Second time, still in opposition, Mr. Speaker. Maybe what one of our previous speakers mentioned, was actually identifying what the problem is. Mr. Speaker, I've sat in some of these committee hearings where we've had bills that would have added anywhere from \$600 million to a billion dollars worth of new costs, thrown onto the backs of HECO. And then HECO, if we had passed that measure, HECO would have to go back after this legislative session and figure out how they're going to squeeze \$600 million to a billion dollars out of the ratepayers.

"That's one of the major problems that I have, Mr. Speaker, is that as was said, this Body essentially bears the most responsibility for policy and the way the utilities carry out their business.

"So why do we have HECO in the hot seat? If we're the ones who are responsible, send the bullets this way. And that's the problem, Mr. Speaker. They show up and maybe they're going to walk away with \$1 billion worth of new costs. It's impossible to develop a business plan, a business model, when you don't know what you're going to get from day to day.

"So maybe we've actually identified the problem. And especially when you're dealing with a boss, that may change every two years. You know, this boss wants this over two years. Two years later another boss wants another thing. Mr. Speaker, maybe that, maybe we've pinpointed it today? Maybe we need to lend a little more autonomy or a little more self-governance to an organization that comes and gets mandates every other day and that may change from day-to-day, from week-to-week, from year-to-year. And that's something that we really need to take into consideration.

"I can't imagine having to operate and having to put together a business plan and a model that will function when I don't know what the boss is going to want tomorrow. And for those reasons, Mr. Speaker, we need to reassess. I haven't seen my electric bill go down. I haven't heard any of my neighbors' electric bills go down. I haven't heard anybody. And this Body, if this Body's been in charge, what have we been doing? Going back to things that we talked about earlier, Mr. Speaker, it's the accountability and delivering.

"Mr. Speaker, we need to be able to sit down with HECO and say, what does the picture look like and what set of parameters can we lay out, that we can give the organizations certainty, that we can say, if you give us this, we will deliver that. And it's that certainty, Mr. Speaker, that we're still lacking, and this measure definitely doesn't resolve the core fundamental problem with this, and we still have to address that issue, Mr. Speaker. For those reasons, I'm still opposed."

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

"In strong support. I just wanted to adopt the words of our Kailua delegation, the Chair and Vice Chair of EEP. Also, just a brief comment. It was mentioned that the Legislature should take the hits, that we should help, we should be in the hot seat and help craft a new plan. And that's exactly what this bill is about. Thank you."

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

"Mr. Speaker, I need to disclose a potential conflict of interest. I own some shares of stock in Hawaiian Electric Company," and the Chair ruled, "no conflict."

Representative Oshiro continued to speak in support of the measure, stating:

"Thank you, I'll be voting in support of this measure. Thank you very much."

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

"Mr. Speaker, I need to disclose a potential conflict of interest also. I do hold shares in Hawaiian Electric also," and the Chair ruled, "no conflict."

Representative Jordan continued to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. I am in support of this measure. Thank you."

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

"Thank you, Mr. Speaker. I too have a potential conflict I'd like to disclose and I regret not disclosing it earlier. I'm a ratepayer of Maui Electric Company," and the Chair ruled, "no conflict."

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

"Strong support, comments to the Journal, Mr. Speaker."

Representative McKelvey's written remarks are as follows:

"Mr. Speaker, Hawaii's utility service sector and associated regulatory model are both part of an operating environment that has undergone sweeping change in recent years. This change has led to a number of issues, chief among them is an apparent disconnect between the traditional role of the electric utilities and the needs of the public.

"Today, the proliferation of distributed generation and other advancements in the energy sector have led to a far more complicated electric system. While the majority of customers remain completely reliant on the electric utilities for electrical service, a growing number of customers are capable of generating their own electricity. What happens though is due to the intermittent nature of the technology used by customer-generators, these customers generate electricity to be used on-site or can send excess power back to the grid. They also take standard electric service from the grid in varying degrees especially when unable to generate electricity.

"Mr. Speaker, the various policies adopted by our state have led to the incorporation of greater amounts of energy, both renewable and fossil resources, supplied by independent power producers who sell generated power to the electric utility, who then use that power to supply electricity to their customers. Consequently, the traditional regulatory compact does not encapsulate the range of relationships that today's electric system incorporates. With the changing landscape and complexity of the modern electric system, I believe that a review of the fundamental electric utility customer is warranted."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1999, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC UTILITIES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 893-14) recommending that H.B. No. 2116, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2116, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, slight reservations on this measure."

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

"Strong support, written comments."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This bill establishes new factors to be considered in sentencing those convicted of an offense committed while under the age of 18 and a sentencing modification process for the same. This measure also eliminates life without parole for juvenile offenders.

"As stated in the contents of the bill, 'The legislature further acknowledges that the United States is the only country in the world that allows children to be sentenced to life imprisonment without parole, in violation of Article 37 of the United Nations Convention on the Rights of the Child, which categorically bars the imposition of capital punishment [or] life imprisonment without the possibility of release...for offenses committed by persons below eighteen years of age.'

"We don't allow children under 18 to vote, enter into contracts, buy tobacco or alcohol or even work in certain industries because we recognize their immaturity and lack of decision-making ability. This bill aligns with other aspects in our society and culture.

"I would like to also thank those proponents of this measure, in particular, James Dold, Advocacy Director for the Campaign for the Fair Sentencing of Youth, Christian Mitchell who is a current UH Richardson Law School Student and represents the Richardson Students for the Rights of Children, Kat Brady of the Community Alliance on Prisons. I would also like to thank the Chair of Human Services, the Chair of Judiciary, and Vice Speaker, for their efforts in supporting this important bill. Thank you, Mr. Speaker."

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise today with reservations on HB 2116, HD2. I am supportive of prison and justice reform—particularly efforts to improve rehabilitation. However, I do have concerns that we're moving too quickly. We need a system that emphasizes but does not depend on rehabilitation. Additionally, I would note that the juveniles in question would already be eligible for a commutation. So this bill may be unnecessary. For these reasons, I vote with reservations on HB 2116, HD2. Thank you, Mr. Speaker."

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of HB 2116, HD 2, which eliminates sentences of life imprisonment without the possibility of parole for juvenile offenders. The Legislature acknowledges and recognizes that children are constitutionally different from adults, which means in some aspects they are not always subject to the same standards as adults. This is especially true in our judicial system, which is evident because we make the distinction between juvenile and adult offenders.

"However, our judicial system falls short when it comes to the sentencing of juveniles for crimes of a more serious nature, sometimes referred to as 'adult crimes'. The fact that we still sentence juveniles to life in prison without the possibility of parole not only violates our commonly held belief that children are not the same as adults, but it violates international law as well. According to Article 37 of the United Nations Convention on the Rights of the Child, 'no child shall be subjected to torture or other cruel, inhumane or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.'

"A life without parole sentence when imposed on a juvenile offender, which is defined as a defendant who was under 18 at the time of the crime, violates international law and standards which are almost universally accepted around the world. These standards maintain that, however severe the crime, juveniles, who are still developing physically, mentally and emotionally, do not have the same level of culpability as adults. Due to this variance in accountability, juveniles require special treatment in the criminal justice system that is in accordance with their youth and immaturity. The primary objectives should be the child's best interests and the potential for his or her successful reintegration into society.

"Furthermore, juveniles, because of their immaturity and the fact that they are still developing, are a group that present the best possibility for rehabilitation and reincorporation. This is a group whose negative behavior can be corrected, they deserve that chance to reintegrate back into our society. Bottom line is that we shouldn't be throwing these children, who are not yet mature adults, into our prison systems without the possibility of parole. It does our society no good to deny these children the basic right of a second chance.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote yes on HB 2116. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2116, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING FOR JUVENILE OFFENDERS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 894-14) recommending that H.B. No. 2302, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2302, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BEHAVIORAL SUPPORT REVIEW OF RESTRAINTS AND SECLUSION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 895-14) recommending that H.B. No. 2565, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2565, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, slight reservations on this measure also. Thank you."

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

"In strong support, written comments."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This bill establishes a coastal memorials task force to review, evaluate, develop standards, and makes recommendations regarding the practice of erecting coastal memorials.

"Permanent memorials are being built throughout our coastal areas in parks, on reefs and along the shoreline. Meanwhile, governmental agencies are pointing fingers and not taking responsibility. The intent is not to be disrespectful, but to be proactive in addressing this issue so that the general public can be informed with guidelines reflecting a consistent message from all governmental agencies.

"In 2011 an identical bill was introduced in the House. DLNR opposed this measure and stated in part, 'We respectfully ask that this matter be tabled to give the Department more time to consider how to manage the situation within its current regulatory and management framework, prior to compelling us to form a new task force that will further inhibit our ability to manage the core functions of the Department.'

"In 2014, DLNR again provided testimony in opposition to this measure. When a question was asked by the DLNR representative as to what was being done since 2011, their response was, 'Absolutely nothing.'

"Mr. Speaker, if we do not pass this measure, my fear is that absolutely nothing will be done. For these reasons, Mr. Speaker, I rise in strong support for a measure to address coastal memorials. Thank you. Mr. Speaker."

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. *Kako'o loa.* In strong support. *'O kēia pila e ho'o mana'o ohana mai ka makalai. 'O ka 'ohana he mea nui no na po'e kahiko a me na 'ohana o ko 'a.* This bill is about coastal memorials. The family is valued in Hawaiian families and other families. *Mahalo.*"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2565, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEMORIALS," passed Third Reading by a vote of 51 ayes.

At 4:20 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2442, HD 2
H.B. No. 2490, HD 2
H.B. No. 1971, HD 2
H.B. No. 1999, HD 3
H.B. No. 2116, HD 2
H.B. No. 2302, HD 2
H.B. No. 2565, HD 2

At 4:20 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:37 o'clock p.m.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 896-14) recommending that H.B. No. 2276, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2276, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise with reservations. I wanted to give a speech on this just because in concept I think we are all, including myself, very supportive of increasing educational opportunities for all of our children. An obligation is one of the themes that I'm going to be talking about in this speech, and I do believe that we have an obligation to make sure that there is a strong public education system, and those opportunities inherent within it for our children.

"Why I do have reservations on this particular measure, but why I will be supporting it and appreciate that there is a defective date so that we will be able to continue the discussion, is several fold. One of them being, the plan continues to change and morph. We've heard several different models, and I realize that this is just the enabling language post a potential approval of the constitutional amendment.

"But it gives me pause when the fundamental model that the early education program is based on continues to change and continues to morph and continues to be unsettled when it potentially is serving a very worthy population. But in doing so, this particular bill mentions three- to four-year-olds as the population. But in doing so, there are also significant costs associated with that, and I don't necessarily mind that this state bears those costs. Because again, I do think that it's a worthy obligation to be educating our children.

"But what I worry about is, as we are creating a new program, and again, no one doubts the worthiness of the program, but as we are creating a new program, not fully looking at what the obligation may be in terms of what the taxpayer is going to have to bear, what the state is on the hook for. As we continue to debate whether other programs are fully funded and whether other worthy endeavors by the state are operating at capacity, at 100 percent efficacy. I really think those are serious concerns.

"One other serious concern that I have with this, the early education executive director did also note that in terms of looking at the continuum of providers, we still don't have enough agreement where, even if the population wants to enter, and say we pass this bill and the constitutional amendment passes, that there may be enough providers in the private sector in order to accommodate what we are setting up.

"So the gist of my reservations centers largely around there are many unanswered questions for a largely new governmental program that we will be creating that comes along with significant obligations. And I just think it's incumbent upon this Body to continue to flesh those out and really, for the administration, to have a concrete, solid plan before pursuing this and before going down what is probably a very worthy, but very major change for state government. Thank you."

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

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

Representative Fale rose in support of the measure with reservations and asked that the remarks of Representative Johanson be entered into the Journal as his own, and asked that his written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise with reservations regarding HB 2276, HD 1, a measure that establishes the Early Childhood Education Program in the State of Hawaii.

"Mr. Speaker, this measure is premature at this point in time. In order for this measure to be enacted, there must be a constitutional amendment first that allows privately run preschools to accept state funding.

"For these reasons, Mr. Speaker, I rise with reservations regarding HB 2276, HD 1."

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, we've talked on this Floor about the social determinants of health. We might talk about the educational determinants of life, in the sense that we have been told that there are haves and have nots. There's really a bifurcation of society becoming where it's educated and not educated. This is one that should level the playing field.

"My reservation is, it's the easiest thing to do poorly. We can get the kids in there, but if we don't really get them with the right training and not just babysitting them and all the funds that will go in. And if it's the wrong group, like, as you know historically, we spend \$83 billion on Head Start. And the kids that were watching Sesame Street were the middle-class kids, not the kids that should have been in there to be up to speed and on level with the other kids.

"So with those things, education is really what's going to determine the future of this state, the future of our nation, and quite frankly now, we are so far behind in the world, we've got to do everything we can. This is not to say that this is an elixir and it's a panacea, but it's something we've got to try to see if it works and there should be very stringent measurements to make sure that what we intend to do with this money, what we intend to do with the kids, actually happens and we can measure it. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2276, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Aquino, Awana, Carroll, Cullen, Fukumoto, Hanohano, Ito, McDermott, Say, Tsuji and Yamane voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 897-14) recommending that H.B. No. 2597, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2597, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHERS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 898-14) recommending that H.B. No. 2263, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2263, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I need to declare a possible conflict. I will be a beneficiary of sick leave conversion," and the Chair ruled, "no conflict."

Representative Morikawa continued to speak in opposition to the measure, stating:

"Thank you. In opposition. After working 36 years, I think I deserve my two years of additional service time, thank you. I know that we need to address policy that ensures the solvency of the Employees' Retirement System, but I disagree that this bill will help do that. There are approximately 21 working days per month for government workers.

"Currently, when workers retire, they can convert 20 days of sick leave for one month of service credit. This new proposal for prospective employees would double to 40 days of sick leave that can be converted to only one month of service. Does that sound fair? An employee needs to work almost two years to earn 40 days. Where is the incentive for an employee to save their sick leave? I can see where this will lead to abuse of using these leave credits instead of saving it for retirement.

"Furthermore, this proposal is thought to save money tomorrow, but in actuality will cost money today, especially when employees decide to use their leave when earned. Employees can also donate their sick leave to other employees, which passes the employers' cost to another individual. This policy will not save money. It is only another disincentive for government employment. Thank you, Mr. Speaker."

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

Representative Onishi rose in opposition to the measure and asked that the remarks of Representative Morikawa be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

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

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

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

"Reservations, Mr. Speaker. Real quick. I think it might have, I think the Representative of Kauai kind of alluded to it. It may have the unintended consequences of having a 'use it or lose it' policy for some of our state employees. And I think that might affect the actual savings for state government. Thank you."

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

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

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

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

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

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

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

Representative Kawakami rose in opposition to the measure and asked that the remarks of Representative Morikawa be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

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

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

Representative Fale 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. 2263, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 41 ayes to 10 noes, with Representatives Cullen, Fukumoto, Hanohano, Johanson, Kawakami, Lowen, Matsumoto, Morikawa, Onishi and Takai voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 899-14) recommending that H.B. No. 1994, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1994, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

"Thank you, Mr. Speaker. In support. I would like to insert written comments but make just a couple of brief comments to explain this. I just want to share my thoughts. This bill is not perfect. It has a defective date of 2030, to begin with. But, I just want to emphasize the critical discussion that we will have.

"We've been talking about the effect of invasive species, and it starts with the effect on our environment. But what we have realized is that, and it's inextricably related to our economy, and our economy is suffering significantly as a result of the introduction of multiple invasive species. We've been looking to the Department of Agriculture, in particular, to try to address the challenges, and they've had their own set of oversights and mistakes maybe, but they certainly are working hard to address the problem. One of the things that we're realizing is, they don't have complete control. Some of the species that are coming in are getting spread throughout the islands by our very own businesses.

"Some of the examples include the coqui frog. Now the most dangerous one is the little fire ant. But we have had so many. We have fountain grass, apple snail, devil weed, spiked pepper, glory bush, fireweed, cape ivy, the list goes on and on. And once these get here, it actually requires we continue to spend money. It's often very difficult to eradicate. We end up just spending money on control.

"I would like to address the concerns that the nurseries have in particular. I'm actually very happy to see them coming to the table, because for many years, if not decades, the Department of Agriculture has been trying to work closely with them to prevent the very spread of invasive species. This is really the first time where they're coming to the table to talk about what those solutions might be.

"If I might have permission to enter in, also, a couple of emails that I have received, from Lori Buchanan who identifies why the nurseries in

particular are so critical in this discussion, as well as one from Teya Penniman from the Maui Invasive Species Committee. It also shows two maps about how the nursery stock is ending up propagating and being sent to every island.

"So, I just want to emphasize that this measure is critical in our effort to address the alien species that are coming into the state, and I look forward to continued discussion. Thank you."

Representative Wooley submitted the following:

"Aloha Representative and Senator,

I cannot thank you enough for your efforts to protect Hawaii. The inter-island movement of pest has been a historical and costly problem for Hawaii. For example, the island of Molokai does not currently have a number of game changing pest like coqui frog, little fire ant, miconia, apple snail, fountain grass, albizia trees and various other pests that "hitchhike" on plants and materials all the time.

The best and most recent example of an intra-island pest movement fiasco is the recent spread of little fire ant on hapuu logs (from BI) widely distributed to big box stores and nurseries on Maui and Oahu! Dah! The pest is "out of the bag", this is a disaster with monumental impacts and it could have been avoided.

MoMISC-Molokai/Maui Invasive Species Committee has personally caught live cogui frogs on fruit tree shipments arriving on Molokai from a well-known nursery on Hawaii Island. Ants, and various other established pests also make their way on the plants. Some of these shipments come with an "inspected" sticker from ag.

I just received a community report last night of a shipment of coconut and palm trees that arrived on Molokai at the harbor yesterday. Where have these trees come from? Did they come from an area infested with the new coconut rhinoceros beetle? Fire ants? Coqui frogs? I need to respond quickly!

MoMISC and the other island based invasive species committee's work hard to chase these constant incursions of pests and it is crazy to know that shippers/sellers of goods have no consequence for introducing harmful species to an island/area that works hard to keep clean.

Mahalo Plenty for your diligence to protect Hawaii.

Lori Buchanan
MoMISC-Molokai"

"Aloha Rep. Wooley,

Thank you for your continued support to address the inter-island movement of harmful pest species. You asked whether we had any information or data to show that pests such as coqui frogs or little fire ants are moving between islands, and in particular on nursery stock. I have attached two maps related to the continued introduction of coqui frogs to Maui Island. One map shows all known "population centers" of coqui frogs, which means locations with five or more calling males. The map shows which ones have been eradicated (12/19) and which ones are under active control. Many of those eradications took years to accomplish. In nearly all cases, it was possible to establish that the frogs arrived on nursery stock. Unfortunately, there are several locations that we consider to be "revolving doors" – nurseries or plant sellers where coqui continue to arrive. Our crews continue to go to the site to do control work, but we can't be there every day/night and we don't get them all on a single visit. So we know that coqui continue to be moved into the larger community despite our best efforts.

The second map shows what are typically single frog detections, from September 2010 to August 2013. Of course only the males call, so we don't really know we "got them all" and these are only those reported to MISC. These sites often result in hand captures of the frog and perhaps some spraying of citric acid. Of great alarm is the increase in the number of reports we had last year. During 2013, we had three times the number of single frog reports than we did over the average number of reports for

the three previous years, suggesting that more frogs are arriving on contaminated nursery stock.

Regarding little fire ants, the Hawaii Department of Agriculture has told us that they are intercepting the ants at least one time a week on cut flowers, ti leaves, fruit and/or nursery stock. Of course we know the ants were moving on hapuu ferns and became established at several garden shops on Maui and at least 10 different locations (stores, nurseries, distributors) on Oahu.

I'd be happy to answer any other questions you might have.

Teya M. Penniman
Maui Invasive Species Committee"

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

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

"Thank you, Mr. Speaker. In support, but with deep and grave reservations. I'd like to say 'in support', and I will because I am a strong believer in agriculture and sustainability in our state. But I do say 'deep reservations', because this legislation as addressed and written may have unintended grave consequences. There has been discussion about the impacts of the economy in the State of Hawaii. I can say if we don't address this bill cautiously and properly and understand this legislation, it can devastate the entire Big Island and the rest of the State of Hawaii, especially when it deals with intrastate commerce.

"This bill will stop the export, not only of fruits, vegetables and floriculture, coffee, but think about other export industries from the Big Island and the state. Motor Vehicles, cinder, timber, bio-fuels, and even we human beings that go from island to island. This bill affects such intrastate movement.

"We want to have the state become more import independent. But with this type of legislation, we will be more dependent on imports than ever before. And that means what? Less exportation of our agricultural products, economics won't say, what, employment in agriculture goes down and we will never reach a level of sustainability, whatever that we're trying to desire.

"Let me give an example in one section of the bill that talks specifically about quarantine. Let's picture this scenario. Let's say Honolulu Airport, or the Honolulu Harbor, all are suspected of import commodities, vehicles, passengers. Under this legislation, all items including human beings, again, will have to be inspected. The cost is tremendous. I got some figures from some authority very hastily. He said, 'If you do everything, it's over 14 million of parcels that will be movement in these two areas alone on an annual basis.'

"The roadway system will have to be improved. You've got to design and provide for inspection and treatment areas, will cost the states into the hundreds of millions of dollars. This is a possibility, as invasive species has the greatest potential to inhabit, establish in the ports and harbors that I mentioned.

"Another example. I'll give an example of a location, let's say Waimanalo. If Waimanalo was dedicated as a quarantine area, and this is a possibility, in fact a high probability right now. No cars, trucks, green waste or trash can leave Waimanalo without inspection and treatment. That's the definition of quarantine according to state statute, DOA administrative guidelines, and what the bill is trying to follow.

"Therefore, every morning, even commuters have to be quarantined and inspected. You don't like TSA at the airport, imagine yourself trying to go to work on time in the morning or getting back to home after work. I'm not sure about what the city and county would say to this, with the trash removal in the vehicles in the morning."

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

Representative Tsuji continued, stating:

"Thank you very much. I'll close and say, with that said, I believe in sustainability. I believe in agriculture. I believe in sustainability of economics as a whole in the State of Hawaii. With that said, I support this legislation with reservations. Thank you."

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

"Thank you, Mr. Speaker. I rise with grave reservations and I ask that the good Representative from Hilo's comments be entered into the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In support with reservations. I do support the intent of this measure, but I think that there's some language in it that really still needs to be worked on. But we need to take a careful look at it. So until that happens, I have reservations. Thank you."

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

"Mr. Speaker, I rise with the same very grave reservations as the Representative from Hilo, and can I have his comments entered into the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Wooley rose to respond, stating:

"Thank you, Mr. Speaker. Just in brief rebuttal. We can talk about fear and things that we're afraid of, but I want to emphasize that there's something real that is here now that we should be very afraid of. And that's the little fire ant. I'm looking at a report that talks about the potential decreased management costs if we are able to control this. And that's \$5 billion savings, including \$540 million in reduced damages, and 2.1 billion fewer sting incidents over a 35 year period.

"So when we're talking about the economic impact on all of us, we have to be very careful and think about what we already have here, and why we have it here, and how we're going to prevent that from happening in the future, so that all of us are not living in a place with a little fire ant. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. I'm in support because I believe the Chair of the Agriculture Committee is correct. This is before us right now, we need to do something about it. And I really hope the Legislature passes out some measure to deal with the fire ants, as well as other invasive species.

"I remember standing here maybe 10, 15 years ago when our Representatives from the Big Island were talking about the coqui frog. And I think at that time none of us really took the threat seriously, to the point that today, we're not talking eradication, we're just talking about containment. For one of those communities on Oahu who actually was exposed to the coqui frog through intrastate shipment of some, I think it was ferns or *hapuu* or some indoor plants from Hawaii Island, I know what it's all about. Fortunately, we were able to get together, Department of Agriculture and some volunteers, and go out there and actually hunt them down and kind of isolate them, so that as I speak today we know of no coqui frog in Wahiawa area.

"But let me assure you this, it's here. It's out in the Windward side, it's out in Koolau, Koolaupoko, Koolauloa. It might be up in Aiea, it might be up in Pearl City, it might be up in Manoa. So until it becomes a crisis, I think we need to try and address it. But again, the former Chair of Agriculture, my friend from the Big Island, does raise some questions regarding the effect upon the intrastate shipment of plants and those products.

"But again, I think we need to do something, so I encourage the committee members who are going to work on the bill to try and get something out, because this is an opportunity. And it would really, really be a lost opportunity if we weren't able to address it, especially with the fire ants. People who've been down south, South Pacific islands where you have fire ants, it makes outdoor activity impossible. So I think I've heard her concerns, and these are the reservations I have. Thank you, Mr. Speaker."

Representative Onishi rose to respond, stating:

"Mr. Speaker, still with grave reservations. This bill, as it reads, targets the agriculture industry only, as my good friend, the Representative from Hilo, spoke. This issue is not just the ag industry. This affects everything that we move intrastate. Whether it's cars, whether it's products, whether it's home furniture. Any kinds of things that are moved intrastate would need to be inspected to ensure that invasive species are not traveling along. I heard a story where a sofa was infested with fire ants, and they moved from the Big Island over to Oahu, and then found out that the sofa was infested and had to be destroyed. Who's going to be monitoring that?"

"I talked to a friend of mine who works for the Department of Agriculture on the Big Island, and he said that we would have to set up facilities similar to what we do at the airports that would check everything at every port. Airports, harbors, different means of transportation interisland, in order to stop the spread. The good Representative from Wahiawa spoke about how coqui frogs have already been transmitted to Oahu.

"The problem is much broader than just affecting the ag industry. But the fines, \$10,000 or the value of the product, whatever is higher, as a penalty for this being detected. Right now there's no protocols. I asked during our hearing in Finance what was the Invasive Species Council doing in regards to little fire ants, and what were the protocols established to ensure that the little fire ant was addressed on the Big Island and would minimize the spread of little fire ants to the rest of the state? And basically, the answer was, nothing is being done. After all of our history with the coqui frog, and what happened with the coqui frog, the Invasive Species Council has still not addressed statewide protocol for invasive species.

"This bill will go nowhere to make them address these issues. I think that that should be the focus, that they should be held accountable, they should be developing the protocols and the processes by which invasive species are controlled. Thank you."

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

"Mr. Speaker, standing up with reservations. Mr. Speaker, my reservations actually are very similar to those from the previous speaker in regards to the impact on our harbors. One of the conditions, not only the \$10,000 which would have some question on who that would be imposed on, if it would be imposed on a shipper who's moving a container unknowingly containing fire ants. But also, Mr. Speaker, there are some requirements here that the inspector has to be notified 48 hours prior to this service being needed, and also having an area assembled on premises for the inspector to do what is necessary for the inspection.

"As you know, Mr. Speaker, our harbors are highly congested. Products move in and out at all times of the day, almost. And some of these conditions do not conform to the movement of product and would actually have some negative impacts on the movement of fresh produce. Thank you."

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

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

"Thank you, Mr. Speaker. In support with reservations. I just would like the words of the speaker from Wahiawa and the two speakers from Hilo

entered into the record as if they were my own. I just hope as this measure moves forward, that we look at also possible effects on less than container loads, Mr. Speaker, which we know are very important for small businesses and others to try to ship things interisland with not having to have a whole container. Thank you very much."

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

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

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

Representative Ito 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. 1994, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL LIABILITY FOR THE INTRASTATE TRANSPORT OF INVASIVE SPECIES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 900-14) recommending that H.B. No. 1841, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1841, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, with reservations and a few comments. Mr. Speaker, we have multiple programs that address homelessness. And I think we should remain focused with the recommendations from the Homeless Interagency Council as well as our Housing First project before we start stepping in to new grounds of homeless projects. I think we need to stay focused. I think we are on a target to help end homelessness within 10 years, especially our most vulnerable homeless. That would be our mentally ill or maybe our individuals with substance abuse. And that's what the Housing First project addresses.

"But Mr. Speaker, I have to rely upon the testimony that was given during the Housing Committee. And during that testimony, the department had stated that we're going to need almost 10 individuals to help implement this program. So, if we want to be effective on what we're doing, I'm not so sure if we want to continue to grow that homeless department within the Department of Human Services. I think we should channel the dollars straight into our homeless individuals, Mr. Speaker.

"Unfortunately, we weren't able to get any testimony from the Department during Finance hearings. But according to what I see in the Housing Committee, I'm not so comfortable with moving forward with this, as well as growing that department. Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, I rise to speak in strong support of this bill. Way back in 1992, we passed a bill similar to this, but it only allows five homes per census tract. The rationale for this, is this. There are two types of

homeless, working homeless and special needs homeless. At this time, and even before, all the homeless are being housed together, especially with working homeless with families. The kids are stigmatized when they are with special needs homeless.

"Having private homes to house just the working homeless is one way to address the number of units, or homes, or places that we can place our homeless. This is only geared towards working homeless. And the way I look at it, if you are coming up with, I think, 16,000 units needed to house the homeless. One way of doing it is, rather than spending hundreds of millions of dollars to build homeless shelters and units to house them, we have existing homes. All we have to do is incentivize owners to at least allow those homeless to stay with them.

"During my invocation I said something about a lady named Liz Marie who is homeless, but some people took care of her to a point that she is now owning an apartment in Manhattan. The other thing is, if you saw the movie 'The Blind Side', those are cases wherein they live in a home setting.

"So this bill will help address homelessness. And just like I said, it's cheaper and it will only address working homeless, especially those with kids. They will be in a home setting, and they will not be looked at as being homeless. Those families can also help out by, if they have skills like cooking, they can help the owners. If they have skills in landscaping, they can tend the yard. Like my wife used to be a babysitter when we were in San Francisco.

"So to a point, there are a lot of positive things that can happen. It's not 100 percent proof that this will address homelessness, but it's one way to address it by providing shelters to the working homeless. Thank you."

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

"Mr. Speaker, in support, just briefly. We have a very severe homeless problem as most everyone is well aware, and I think this bill deserves to move forward so that we can examine every possible avenue for helping the homeless. I think that the working homeless are probably, in many cases, in many respects, the easiest cases to deal with because they want out. They're living on the streets or in a shelter because they have to, not because they want to. I hope we will pass this bill forward and give it serious consideration. *Mahalo*."

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

"Mr. Speaker, I'll be voting in support with some reservations. My reservations stem from the comments of the Representative from Waianae. So I hope that we can find the necessary funds and create the necessary positions to properly run this program, if we're going to go down this path. Thank you."

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

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

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

"I'm rising with reservations, to support my brother in Ewa. Thank you."

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. 1841, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESSNESS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 901-14) recommending that H.B. No. 2580, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2580, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise with reservations. Thank you. I did want to start off by noting, and I know that I've mentioned some of these things, but I just think they bear repeating. But I did want to appreciate, publicly, the changes that continue to be made to the bill. I think it represents an earnest effort by our chairs and by the Body to grapple with an important but complex issue on how to reduce poverty and how to uplift the worker. I think that really needs to be applauded. I also appreciate that the House, in particular, is moving some other measures that I do think, personally, might have greater effect in uplifting people out of poverty. So there are other mechanisms to do that, and I appreciate both of those things.

"With respect to this bill and why I'm rising with reservations is because I think that, while this is a good faith earnest effort, I think that we can do more and we can do other things to reduce the cost of living more broadly for a greater swath of people, not just those people on minimum wage. I think that requires significant commitment by our Body, not just in terms of rhetoric but also in terms of resources, because much of the most broad-based tax relief does come with significant price tags attached to it.

"What I worry about in particular with this measure, and I like some of the changes that have been made. Specifically, I think these are some difficult increments for business to weather each successive year. I'm not philosophically opposed to the minimum wage, but I do think successive increases, year after year after year after year, are difficult for the business to absorb. I do think because there's some regularity in the law, at least they can plan for it.

"But many of these businesses are small businesses. And a small business owner, like the worker, is also a person, and I think that sometimes we can forget about small business owners, particularly in this Body, also as a class of people who struggle. Many of them are struggling especially, and that's who I really have a heart for. Mostly, the mom and pops who probably are going to struggle most with this particular bill, because they're operating with the least profitable margins and just trying to keep the business afloat.

"I worry that this bill may have some unintended consequences either with respect to these mom and pops and their potential closure, or I worry that for the worker, any gains mandated by these increases will be offset by people shedding certain hours, still keeping people employed because I think a lot of the mom and pops want to operate their business, they want to keep people, their staff, employed. But I do think that if they can't afford the same number of hours at a higher price, naturally they will start to reduce those hours.

"I think that those are some significant concerns that I have. I do, again, appreciate the intent of the measure. I don't philosophically have a problem with the minimum wage as a concept, but I think those are some very significant concerns that we need to continue to address as we consider both the Senate Bill, and as they consider this House Bill. Thank you."

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

"Mr. Speaker, in support with reservations. My reservations are somewhat different than the former speaker's. I share his concern about the jump up. It's been since '07 since the minimum wage has gone up. And yes, when you go seven years now and there's no increase, it is a shock to the system as a business owner, that all of a sudden, if you went in one step up to the former rate.

"That's why my reservations have to do with dropping the CPI, because with the CPI, you have a lot more predictability. You know that in any given year the rate, as a business person, you know that any given year, it's not going to go up by more than the rate of inflation from the previous year. And if you set it up right, it will go down if there's deflation. That is actually a much more predictable way to do business than waiting for the Legislature every six or seven years to up the wage in big increments.

"In addition to the problem, for the workers themselves, every year that goes by that they haven't had an increase that's because of inflation it's an actual decrease. So they're living on less and less money facing higher and higher costs of living because inflation doesn't stop, or at least not usually. There was a very minor deflation, I think, in '08 it went down. The deflation rate was 0.1 percent.

"So, I hate to see the CPI go, because it would make things more predictable and it would keep, actually keep the wage constant instead of this continual cycle where we set it and it drops due to the cost of inflation and then we pop it back up, and then it drops due to the cost of inflation. It's just, it's unpredictable for everyone and I think it would be much better if we kept the CPI in. *Mahalo*."

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

"As an owner of three restaurants, and still have interest in one of them, I want to ask for a ruling on a potential conflict," and the Chair ruled, "no conflict."

Representative Tokioka continued to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I rise with reservations. My reservations are, if you look at the tip tax credit was figured out and drafted in the bill, and I know that the Labor Chair and the Finance Chair worked really, really hard on this and there was a lot of good discussion, there was a lot of good testimony from the restaurants. But I think the wording in this bill, Mr. Speaker, will really, really hurt the small little restaurants, the Washington Saimins, the small little Chinese restaurants throughout the State of Hawaii. Because what they're going to have to do to figure this out is hire somebody like the Representative from Manoa, because that's what it's going to take. I don't know how they're going to figure this out.

"I know that there was a lot of thought put into this. But I do know that restaurants survive on pennies and nickels, these restaurants that we're talking about, the small little restaurants. They're not the ones that make the big, high average check. They're not the ones that you see on TV. They're the ones that are just trying to struggle and scratch and claw day to day. These are the people that I'm afraid that this bill may hurt.

"I know it still has a long way to go, but I am concerned that the date on the bill is a clean date. So it may or may not come back. I'm sure the Senate is going to be looking at this very closely as well. So for those reasons, Mr. Speaker, I stand with strong reservations and I thank you for the opportunity to speak. Thank you."

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

"I would like to get a ruling on a possible potential conflict. I'm a small business owner," and the Chair ruled, "no conflict."

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

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

"A possible conflict, my wife owns a business," and the Chair ruled, "no conflict."

Representative Cachola continued to speak in support of the measure with reservations, stating:

"Mr. Speaker, I rise to support this bill with reservations. I know that this bill is still a bill in progress. If you look at the amount of money that is incrementally going to increase the minimum wage, the first increase is 50 cents. Then the following year up to 2018 is 75 cents. Businesses are complaining, especially the small businesses, that it will be hard for them to come up with these increases. On the other hand, we know that we haven't raised the minimum wage since 2007. Something has got to be done.

"A possible compromise is to see whether or not we can come up with increases but not this steep, and possibly come up with an assessment every year as to the impact of those increases. Because some businesses, they might go down the drain. Some businesses, if you increase the minimum wage, it is just like a domino effect whereby every range of employee will get a rise upwards.

"So, if we can assess every year the impact of those increases, that we might be able to come up with ways to make certain adjustment as we go along. If it so happens that you're going to lose jobs because of these increases, the businesses statement is correct and it will be us, the taxpayers, who will be also paying increases in the services as well as other products we consume.

"So to a point, I support this bill, but it's still a bill in progress. We should incrementally assess the impact of this as we go along, not just come up with a bill and be stuck with it if there's some negative impacts. Thank you."

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

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

"Mr. Speaker, first of all in support with very strong reservations. May I have the words of the Representative from Moanalua adopted as my own, with a few brief comments, Mr. Speaker. I'd like to reemphasize the importance on the impact this is going to have on mom and pop operations. Remember, the small little restaurants, and also may I have the words of the Representative from Kauai adopted as my own.

"The effect on mom and pop operations, especially like small little convenience stores, small little restaurants, they're going to be the most negatively impacted by any increase in costs, Mr. Speaker. Not the big, not McDonalds, not Applebees, not Chilis, not any of these big operations, because they have the deep pockets to go into.

"What we're going to do is we're going to adversely affect the small operations. And then we're going to come back and then everyone's going to decry the decline of mom and pop operations and that we're turning into the mainland with all these big retail stores. Walmart is going to be able to absorb this cost, not a problem. But the small little stores that are out in Hauula, that are out in Kahuku, they're the ones that are going to be hurt the most, Mr. Speaker. And what are we going to do? We're going to send more people to Walmart, and Walmart's going to send more money out of the state.

"Next, Mr. Speaker, I would like to point to the study that UHERO performed and that identified the increase of the minimum wage as one of the least effective ways to address poverty in the state. I think that's a matter of deep concern. Mr. Speaker, if we're going to do a job, let's do it right. And let's not use the least effective ways to address an issue, let's meet it head on.

"I point to North Dakota. You know what the starting wage is in North Dakota, in McDonalds? \$15 an hour. Not only that, Mr. Speaker, you get a \$300 signing bonus. If you go and sign up to work at McDonalds in North Dakota, they give you a \$300 signing bonus right away, then you start at \$15 an hour. Why is that? Because there's an economic boom out in North

Dakota, Mr. Speaker. And this, this points to another vacuum of leadership, Mr. Speaker, that we need to address.

"If we were to properly work the economy the way we should be, we should be paying our minimum wage people \$15 an hour. In fact, the goal is \$33 an hour. To make it in the State of Hawaii, you need about \$33 an hour. So this small increase is an unfortunate, in that same UHERO study, Mr. Speaker, it says, 'Legislatures like to increase the minimum wage because it's the easiest way to go.' For politicians to do that, Mr. Speaker, it's the easiest thing to do. You get a piece of paper, you write an increase on it, raise your hand, okay, alright. We did our work for the little guy, we can all go home now.

"I don't think that's the best way to do that, Mr. Speaker. We need to address the real issues, real concerns. This small increase, Mr. Speaker, is not going to raise. I make a prediction, Mr. Speaker. We're going to raise the minimum wage, the poor families that are poor today, after this increase will be poor tomorrow and they'll be poor the day after that as well, Mr. Speaker. We know where this goes, and it doesn't raise those people that desperately need the help out of poverty that they really need.

"Lastly, Mr. Speaker, and this has to do with, there's a number of costs that are increasing for small businesses. Remember, Mr. Speaker, we promised them on their healthcare costs that they were going to go down. Yet, we approve increase after increase in premiums. For insurance remember, we're supposed to get \$2,500 decrease per person, per family in our healthcare cost. None of that came through.

"We have been making promises that the costs of energy are going to go down. All these things we say are going to go down, going to go down. Never happened. So, why are we are going to throw another increase on them because of our shortcomings? Why do small businesses, why do the mom and pops have to pay for our shortcomings? But I guess it's better to give them some help than no help. So, if we're not going to come through in the ways that we should, then maybe we'll take the shortcut. We'll at least extend something.

"For those reasons, Mr. Speaker, I have serious reservations with this. I think there's a lot more that needs to be done, and let's do the hard job. This is the easy thing to do. Let's do the hard work, Mr. Speaker. For those reasons, I have very serious reservations."

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

"Mr. Speaker, ruling on a potential conflict of interest. My wife and her family owns a small business that hires employees at entry level at the minimum wage," and the Chair ruled, "no conflict."

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

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

"Thank you, Mr. Speaker. In support. If I could just note that we have another seven pages to go, and request that we call for the question."

At this time, Representative Wooley called for the previous question.

At this time, the Chair stated:

"The question has been called. Members, I'm not going to stifle the debate. Can I put this out to the Members, if you could submit written comments in support, in opposition or with reservations."

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

"Mr. Speaker, with no reservations. I believe we need to hear someone that has no reservations, as far as the minimum wage is concerned. I have no compunctions in passing this bill. It's been seven years or more since they've had a raise. I've never seen anything come out of this Body here, or anybody, nationally, to find solutions to help the poor. This is one of the solutions, not the only solution to help the poor.

"Now, Members, this is going to be done, this bill says do it over four years, to give the small businesses time to adjust. The minimum wage is not going to hurt the business, what's going to hurt the business is the other costs. My wife and I, I was an accountant. My wife's an accountant. We take care of the books for small restaurants, I know how difficult it is. I also know how difficult it is for the workers of the small restaurant. People have been working there for 15, 20 years at minimum wage because they don't have the skills to go somewhere else.

"Now, this \$3 raise will help them. I know of the woman who takes care of the cars that goes into the cars that go into the hotel in and out, she's waiting for this raise. She's waiting for this raise. There's a lot of people out in the community who are looking upon us as the Body that can help them. So let's help them. Relative as to the difficulty, all they've got to do is call the Department of Labor. They have the schedule that comes up once a year to determine the poverty rate, and in this case it would be about 250 percent above the poverty line, or 200 percent above the poverty line. That figure is available. And most of these people have some accountant taking care of them. So all I ask of you Members is, please be generous to the people who are poor. Thank you very much."

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

"Mr. Speaker, no one has said any opposition, so I think I need to say something. Mr. Speaker, minimum wage is not meant to be a living wage. It's meant to be an entry level wage, a training wage, where young people, marginally employable people, handicap people, senior citizens, can go and work. For the youngsters and those who have disabilities, it gives them an opportunity to learn to show up on time, discipline, punctuality, responsibility and accountability. It's not meant to remove people out of poverty. We could raise this to \$13 an hour and it's not going to get people out of poverty.

"In fact, we have a safety net. We've done a very good job in this state of creating a safety net. So if someone is getting paid \$12 an hour, they're still not out of poverty. So what makes up the difference? The difference is made up in food stamps, in QUEST, in healthcare and all those other programs that are out there. So we pay for it one way or we pay for the other. It doesn't really matter. But what this will do is put high school kids out of work.

"Frank Fasi said, 'Liars can figure, and figures can lie.' And every time the minimum wage goes up, people hire less people. It's just a fact. No one expects to live on it. I bet everybody in here started off as a minimum wage employee. I know I did, and I wanted to aspire to something greater. Let the market take care of it. Companies that are going to hire good people are going to pay more than the minimum wage. That might be \$8 an hour, it might be \$8.50, it might be \$9. I don't know. So those are the reasons to rebut my good friend over there. Thank you."

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

"Thank you. In strong support, and may I have the words of the Speaker of the House inserted as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. With reservations. I appreciate the Speaker and what he said, because he's absolutely correct. There's no substitute for a high minimum wage, if in effect it's the symptom rather than the cure. It's a symptom of not having good job training, it's a symptom of not having high paying jobs, it's a symptom of having a weak economy, it's a symptom of having a tourism economy that doesn't really provide the high paying jobs.

"The point is, Mr. Speaker, we've got to upgrade our people. Not just give them a wage that's going to keep them in a sort of a steady state where they're going to be satisfied and stay around for 15 years. Nobody should have to stay around 15 years in one job. We don't have the incentives with the job training, and the job creation, and the economic development, and

the economic attention that we don't pay enough to in this organization here, to be able to give these people a rising tide so all boats will rise.

"For those reasons, Mr. Speaker, it's the macro things that we have to focus on, not just the micro like this. Even though this is helpful, this is not a cure, it's only a symptom. Thank you, Mr. Speaker."

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

"Thank you, in support. I just note very briefly that, as a former entry level minimum wage employee, and noting that the vast majority of employees today aren't entry level employees, and that had it kept up with inflation over the last 40 years, minimum wage today would be well over \$20. I strongly support this measure. Thank you."

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

"Mr. Speaker, may I request a ruling on a potential conflict? I'm an employer of five employees," and the Chair ruled, "no conflict."

Representative Say continued to speak in opposition to the measure, stating:

"Mr. Speaker and Members of the House, to be very candid and honest with you this evening, on Second Reading I voted no. On Third Reading, Members of the House, once again I will vote no based on the process that we have here before the House. Earlier during the session there were stories in the paper that maybe the House and Senate would convene a conference committee on this particular measure.

"Simply put, I do support increase in minimum wage, but the biggest hang-up for the past four years has been the tip credit. To simplify it, there are two parts. The incremental step increases, which I agree 110 percent, because my employees get more than \$10 an hour. But more importantly, the tip credit was the biggest hang-up even for last year.

"Mr. Speaker, with this particular draft I personally felt it convoluted what we're trying to do, because a lot of us did not have a discussion on the Floor of the House on the HD 1 until today. I did not have an opportunity to say yes or no on this 250 percent federal poverty level. It would have been nice if this particular measure was referred to the Labor Committee then on to Finance. And I respect the decision that was made by the leadership in having it be referred to the Committee on Finance and having a hearing without any of us who were not on Finance knowing what the HD 1 would look like. But simply put, if that's the strategy of the House, I will continue to vote no and tell the public I do support minimum wage with some form of tip credit at this point in time.

"The company that I work and hire these individuals will not benefit from a tip credit. Understand that, Members of the House. I'm a wholesaler. I'm a service company, not a restaurant. So let's get on with it, with the Senate at this point in time, and find out when we will decide to have the bill that's in conference or Senate Bill 2609, Senate Draft 1, SSCR 2813 that passed before the 1:46 deadline today when they recessed.

"All I'm saying, okay, what's the vehicle as we move into the second part of the session? And that's all I request from the leadership to share with the Members of this Body. What vehicle are we going to use? Because we have too many different messages coming across that the general public out there does not know. So, that's where, for my friend who's in the gallery, I do support minimum wage. I just want to get it resolved with this crazy concept of tip credit, even though I will not benefit from it. Thank you very much."

At 5:38 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:40 o'clock p.m.

Representative Say rose, stating:

"Mr. Speaker, may I be recognized just to apologize to this Body, the Labor Chair. I apologize to this Body for not knowing what the first draft was, which wasn't a draft. It was the original draft in the HD 1. So I apologize to this Body, to the Chair of Labor and the Chair of Finance. But as this measure evolves, it's changing so much. That's all I'm saying. So is this the position of the House as we go into conference or to the Senate? Thank you."

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

"Thank you, Mr. Speaker. In support, and I do appreciate the comments of the Speaker Emeritus because we wanted to just correct the record. At this stage, we don't know what the vehicle is. That's part of the legislative process. There's a bill in conference for other bills that are there that we're continuing to pass. But minimum is important enough for us to continue that discussion.

"The bill in conference is, right now, I think the two conference committees agree at \$9.50. I think both the subject matter committees in both the House and the Senate, instead of being stuck to that position, wanted to have different positions come out this session, and we'll see what happens at the end.

"And talking about the legislative process. The bill that came out of the Labor Committee, I think had a lot of concerns shared by a lot of Members, including the repeal of the tip credit and the CPI. And a lot of the Members addressed that. As a result, because of the legislative process, in Finance Committee, with the concurrence of the Finance members, because they had problems with those parts of the bill, and with the concurrence of the Labor Chair who was gracious enough for us to have substantive changes, we took those portions out. Otherwise, today, the House position would be no tip credit with CPI, and I think if that was the House position, people would have a lot different positions than what we're dealing with today.

"A lot of things have been said about the poverty trigger. That's something that we put in to address the situation like the Representative from Laie talked about. UHERO opposes minimum wage, because what they want to do is living wage. Living wage is what we put in, in this minimum wage. Thank you very much."

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

"I stand in support of this measure. I just wanted to first of all have the words of the Speaker on the minimum wage and the increase as my own. Number two, I appreciate the work of the Finance Chair and the Labor Chair. I'm glad the House position, as far as I know now, does not include a CPI adjustment, does include an increase in the tip credit, and does increase the minimum wage. Thank you."

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

"Thank you, Mr. Speaker. In support and just really briefly, I would point out that the real dollar value of our minimum wage has fallen over 20 percent since it was first implemented, compared to what it would have been in 1968 when it was first implemented and hasn't been raised in over six and a half years. So, I think it's time for a raise. Thank you."

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

"Thank you very much, Mr. Speaker. For a moment there, I thought I wasn't going to be able to put my support with reservations on the public record because, Mr. Speaker, this is upon approval and this looks like a clean measure to me. And I was getting a little nervous that I couldn't put it on record, so I appreciate you recognizing me so I can do that.

"I support the increases in here for the minimum wage. I support the tip credit in here. Mr. Speaker, I was once a bartender and a waitress. And I understand what it is to work. And I made great tips. \$1,000 a night bartending was pretty awesome when you're 20 years old. But, Mr. Speaker, my reservations with this measure happens to be the calculation of the additional poverty credit in here, in the tip calculation. That's where

my reservation stands with this. And it's mostly with the calculation put upon the businesses to try and calculate that, especially if an employee works multiple jobs.

"So that's my only reservation with that. Other than that, we should have moved the minimum wage last year and be done with it. But I'm glad we are addressing it, and I want to say thank you to the Finance Chair to be open with the Labor Chair in allowing the Finance Committee to make those adjustments in this, so we can keep this vehicle moving forward. Thank you very much, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support. Just a brief comment. Someone mentioned that even when this minimum wage bill passes, that person who's poor actually making \$7.25, after the bill passes that person will still be poor. Mr. Speaker, that person will still be poor, but he or she will be less poor. It's sort of like when on July 1st of last year we took our 20 percent raises. My household still is not rich, but we're less poor than that. And it seems to me, that if we can take raises last July 1 and this January 1, we can do the same for workers across the state. Thank you, Mr. Speaker."

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

"May I have a ruling on a potential conflict? I am a small business owner with employees," and the Chair ruled, "no conflict."

Representative Woodson continued to speak in support of the measure, stating:

"Thank you, Mr. Speaker. Just very quick, brief comments in support. I just want to say very fast, that I have to pay my workers more than the minimum wage because the market dictates as such. It was important to mention that in the Finance Committee, we asked the business community if in fact they would support a minimum wage if we detached it from the CPI. We took that into consideration, and the bill that was passed out did in fact detach it from the Consumer Price Index. For that reason, Mr. Speaker, I'm in strong support."

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

"Thank you very much, Mr. Speaker. With reservations. Really quickly, just to address some of the comments that were made as far as the spread that happened over the years. Part of what happened was the Prepaid Health Care Act. Since the Prepaid Health Care Act, that's when the splits started, because what happened in the late '60s and '70s, and that's when, if you look at the numbers and you see how it has grown over the years, and you know the prepaid health costs has grown over the years, that's where the split. If you look at the graphs and everybody has those graphs because they have copies of the testimony. That's when it happened, was with prepaid health. And we're the only state that has prepaid health. So that's number one.

"Number two is, I think the very people that we're trying to help, my concern is, and I don't have a crystal ball. But my concern is that the very people we're trying to help, we're going to hurt because with any increase in wages, especially a floor, there may be inflation. And that, again, can hurt the very people we're trying to help. I don't know if that's totally true, but I think that's a concern. And with that I'd like to submit the rest of my comments into the Journal."

Representative Yamashita's written remarks are as follows:

"Mr. Speaker, I would also like to add a few more comments. A large increase in the minimum wage may cause businesses to reduce hours or benefits or put off hiring new workers to compensate for higher labor costs. According to the U.S. Bureau of Labor Statistics, in 2006 and 2007 when the last minimum wage increase went into effect, several low wage jobs in the food preparation industry saw job loss of 4-15 percent or about 2,490 jobs.

"While I know that the public supports an increase in the minimum wage philosophically, they will make their final decisions at the cash register with higher prices. Consumers still have only so much money to spend in their wallets and may choose to buy less or buy less often, which in the end affects businesses and their employees."

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

"Thank you, I'd like to have the words of the Speaker entered as my own. The only comment I'd like to make is that this is not a living wage, but it is a compassionate wage. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, in support. I was going to be in reservations, but after hearing the remarks from our Speaker of the House, it's time we passed minimum wage. If it's going to be a compromise then so be it, this is needed. There's a few comments I need to make, and I apologize in advance, but this discussion isn't just about us. It's about the people watching from home, our staff that stayed late who may be future legislators. I think they need to hear at least other sides of the issue as well.

"For me I'm looking at it through a free market perspective, just like a lot of my Republican colleagues. So, yes, so there's often an argument that unemployment goes up when you raise minimum wage, it's positively correlated. But in fact, we see states with very high unemployment and low minimum wages. We also see states with very low unemployment and very, very high minimum wages. We also see cities, right next to each other, that show the same results. In Hawaii, the last four times the minimum wage was increased, employment actually went up significantly, significantly, as over 2 percent or 2.5 percent. That's not saying that there's a causal relationship, but it is saying, because there's no negative correlation, that there is no causal effect in terms of jobs being lost.

"Now, so the unemployment argument usually goes that because there's an employee that gets paid \$7, if you were to raise his salary to perhaps \$14, then you're paying him twice as much what he's worth. So if you have two of those employees, you've probably got to cut one. But, if you look at the productivity of our employees, low wage employees, it's gone up. It used to be right aligned with productivity and wages until 1965, and then the gap widened. It's at a point now where productivity is 250 percent of what these employees are being paid. So there's plenty, plenty of cushion for employees to pay them more. I just wanted to offer that as a rebuttal to the Representative from Ewa.

"There's also, we can't look at the labor market like any other market. If I were to go, if I wanted a sandwich, I went into Subway and it was like \$25, I'd be like, 'Man this is ridiculous.' I'll go to somewhere else. Quiznos, right? Now, in the labor market, I don't have that luxury. If I'm working, especially as a low wage employee at McDonalds or Subway, and they decide that I don't get paid this much or I don't get bathroom breaks or this and that. I can't just get up and find another job. These people, they lack skills, they lack education, they lack mobility. It's us that are going to have to balance it out for them and make their situation fair.

"There's been lots of instances where government did intervene in order to give more utility for these employees, including, I'll list some examples here, paid sick leave, weekends, bathroom breaks. These things didn't exist until we offered these ideas. And I think now, the business community is plenty comfortable with these ideas.

"I also want to bring up the argument that this only affects a small portion of our workers, teenagers mostly. And that's also not true as well. There's an anchoring effect. There's a great essay by Barry Schwartz written about this. Like good employees, when you raise the wage floor, then it also, they pay people, there's tiered, right? So the \$8 employees would get paid \$10, the \$10 will get paid \$12, and it will bring a lot of people up all at once.

"Economists also say that 20 million people nationwide will be lifted out of poverty. So the idea offered by the Representative from Laie, that it wouldn't help people get lifted out of poverty is just false. In Hawaii, that

translates to thousands of our neighbors. To me, this is a moral issue. It's, are we as a society okay with seeing people working full-time, sometimes more than full-time."

The Chair addressed Representative Ing, stating:

"I'm sorry, Representative Ing. It's your opinion that the opinion of the Representative from Laie is false."

Representative Ing: "The statement's already recorded in the Journal."

At 5:53 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:55 o'clock p.m.

Representative Ing continued, stating:

"Was I out of line? Very quickly, it's a moral issue. Are we okay with people working full-time, sometimes more than full-time? When you go to Jack in the Box, these aren't often teenage workers. The majority of our minimum wage workers are over 21 years old. Some are raising families. Are we okay with them still being impoverished? To me that's very dismaying.

"It's a relatively new phenomenon with the growing inequality we're seeing in societies with, CEOs used to get paid 17 times more than the average employee 40 years ago. Now, it's over 360 times more than the average employee. There's a reason why businesses like Applebee's are struggling, these middle class businesses. McDonalds is thriving, because there's a lot of people in that income level. While Alan Wong's is thriving because there's a lot of people in that income level, the middle section of the market is falling."

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

Representative Ing continued, stating:

"There's a reason why that's falling. So, this won't necessarily hurt businesses. As a matter of fact, it will probably give a lot more buying power to these people and allow this family that could only afford McDonalds to now afford Applebee's. That could only afford furniture from Walmart to now be able to afford Ashley Furniture. So, for these reasons, in the interest of the free market and the interest of supporting small businesses here in Hawaii, I support the measure.

"My only reservations that I was going to mention is about the tip credit and the loss of the CPI connection. Also, let it be on the record that with the Ninth Circuit decisions about pooling tips, that the argument that the tip credit, we needed to bring pay to the back of the house, that will soon be rendered moot, hopefully, so long as there's no Circuit split in the Supreme Court or written decision. It's already not enforced in Hawaii and all other Ninth Circuit states. Thank you."

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of the intent of HB 2580, HD 1, which aims to increase wages of low wage earners. However, I have concerns about the possible unintended effects of the measure.

"My concerns are mostly about what this would mean for our small and local businesses, especially those in my district on the islands of Moloka'i, Maui and Lāna'i. There is potential for this measure to have a negative impact on employers, employees, and the overall economic climate. Without a comparable increase in tip credit, businesses, especially those in the food service industry, will be forced to make difficult decisions that will in turn further negatively affect the economy. Those decisions would

include things like: reducing starting wages for new hires which will create a disincentive in employment, and also, but not limited to, reduction or halting of any further in-house wage increases for other non-tipped employees. This is not in tune with the intent of this measure, in fact, it is opposite of its intent.

"Apprehensions about this measure's negative impact on non-tipped employees is not the only area of concern. I strongly caution this Legislature to be aware of the issues surrounding tying minimum wage to inflation and the consumer price index, which will cause minimum wage to continuously increase. This becomes as dangerous as not evaluating and adjusting minimum wage in the first place because it allows the minimum wage to grow unevaluated and without regulation. Regulation of the minimum wage should be done very carefully and should take a lot more things into account than inflation and the Consumer Price Index.

"While I do support the intent of this measure, as stated before, it is due to these potential, negative, and unintended consequences, which would impact our local businesses, their employees, and our overall economic well-being, that I have concerns on this matter.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to note my concerns on HB 2580. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in support with reservations with brief comments. Thank you, Mr. Speaker. First of all, I want to thank the Speaker of the House for his very passionate speech. I don't think that anyone really has issues with what he's having to say. But what my concerns stem with, my reservations regarding the current draft, is the treatment of our tipped class employees.

"Mr. Speaker, many moons ago I was a food server. Call me a waitress, whatever. I'm not saying I was the best, but I loved that job. And the reason I loved that job was because of the tips. Quite frankly, when I got that two week paycheck, which was my minimum wage, that was just gravy on top of everything else that I made. So, I've been in the restaurant industry for many years, and because of that I feel that I do have some place on which to speak about this bill.

"In addition, I've spoken with many restaurant owners. And these are local people, Mr. Speaker. These are people, this is, I'm not talking about the big chain restaurants, I'm talking about our small mom and pop restaurants who are struggling to make it here in the State of Hawaii. Based on the current draft it is clear that the current problem is accurate reporting of cash tips. It is widely known that tipped class employees underreport their cash tips to avoid having to pay taxes. As a result, numbers that the Department of Labor & Industrial Relations used in their Finance testimony underreport the income of tip class employees.

"The use of a tip threshold perpetuates a culture of underreporting. We have to remember this, Mr. Speaker. Tipped employees are not minimum wage employees. Nobody can refute that. They are not minimum wage employees. Not only do they make their tips, but on top of it they make the minimum wage. So they're in a very, very different position than those who work for small businesses straight at a minimum wage.

"Without a recourse for business owners to collect more accurate reporting, or to assume a fair approximation for cash tips, the current bill will perpetuate a culture of under or misreporting, further perpetuating a culture where a class of employees do not pay their fair share in taxes. Essentially we are making the rich richer under the guise of egalitarianism, which is a slap in the face of democracy.

"The Non-Partisan Congressional Budget Office has reported on a similar federal minimum wage increase, devoid of any tip credit. They forecast that while 900,000 people would be lifted out of poverty, 500,000

additional workers would be plunged into poverty after losing their jobs. It is fair to assume that the approximate advantages and disadvantages would be proportionate here in our Aloha State. If there is a lesson out of this, it is that we must proceed in a manner that will mitigate all negative impacts of the increase to our state's minimum wage.

"The testimony before the Finance Committee has shown that restaurant owners, mom and pop enterprises specifically, that they are the ones who are on the first lines of defense against poverty. They employ and train unskilled individuals, and they are the ones who stand to lose the most under the previous and current iterations of the bill. I would note the testimony of Mr. Lane Muraoka of Big City Dinner. He talked about the fact that he employed veterans who are out of work. He employs those who are disabled. So again, they are on the first line and they are doing their best to mitigate the effects because they understand their role as business owners, as local business owners here in our state.

"Finally, Mr. Speaker, the problem that I have with this version is that the current language in the bill is that the poverty rate is not prorated to the number of hours worked. So the same poverty threshold is used for a 20 hour employee, as is a 40 hour employee. The fact of the matter is, is that many of our food service workers are not full-time employees. They work under 40 hours, and so they will never be able to make that \$33,500 that is required annually because they are not full-time workers.

"While I know that this bill is still a work in progress, I do wish it had progressed more than this. But I am thankful, and I want to commend the Finance Committee for deleting the CPI and reinserting the tip credit. But I did hope to offer my full support on this measure, but based on the foregoing issues, I must respectfully vote with reservations at this time. Thank you, Mr. Speaker."

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

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

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

"Thank you, Mr. Speaker. Strong support. Thank you. In 2007, the last time that the minimum wage was increased, gasoline was \$3.19, bento with drink \$7.52, and dinner for four at a burger restaurant \$22. Today that's gone up to \$4.39 a gallon of gas, \$10.50 for a bento and a drink, and about \$30 for the family of four eating at a burger joint. That equals an increase of 5 hours, 2 hours and 4 hours for a minimum wage employee, additional that they have to work to pay for those increases in price. And those prices increased, Mr. Speaker, in spite of the fact that the minimum wage had not increased.

"There's been much said about whether or not it's a living wage, or really a training wage, and I think that what we're trying to do is we're trying to ensure that the training wage continues to rise as the marketplace continues to pay more. The majority of the employers that came in indicated that they were already paying above the minimum wage. However, there are those employers that continue to just pay all employees the minimum wage, regardless of how much training they've had or how long they've worked for them. So I think that by increasing the minimum wage on a periodic level as the Legislature has done, will continue to ensure that even at the very bottom of our pay structure, those employees are seeing a little bit more to spend and to kind of keep up with the increase in cost of living.

"Much has been said about the tip credit. The tip credit is only applicable of one sector of our businesses. It's the restaurant sector, basically the food service folks. And even there, the fast food guys don't have the tip credit. Our grocery stores don't get to have the tip credit. Our friends in the gas industry don't get to apply the tip credit. It's only in the restaurant industry. So that we're expending so much time and effort on trying to satisfy that one sector of our businesses is kind of difficult. But we did try to do that. And as I look across all of the tipped classes, in my district I see no one making \$60,000, although they have come to hearings

telling me that their tipped employees are the highest paid, they make \$30,000 to \$60,000.

"Because of that, I tried to think of a way where we could cut across all of these different levels of tipped employees. And the poverty threshold is the one that we came up with. And yes, it is a blunt instrument. It does not account for an employee that has many different jobs. If you look at the language of the bill it refers to the employees' employer, not the employees' employers. So you know, we're just talking about that one individual business being able to apply the tip credit to their employee at the point that they hit the threshold. I don't think that it's that difficult a calculation. The employers, in some of the methods that they have brought forward to us, indicate that they already keep this kind of record keeping.

"As we look at it, I think the Representative from Kapolei is right. There is an underreporting of tips. And I don't know how we're going to address that. But it's not going to be in this minimum wage bill. Finally, Mr. Speaker, I'd like to point out that, basically it's my feeling that any money given to the minimum wage earner does not get saved. It goes right back into our economy because they are paying their bills. The story is, do I buy drugs, do I buy medication or do I buy food?"

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

Representative Nakashima continued, stating:

"Thank you. And, I think in this small way, we are able to help them make that choice a little easier. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker. I'd like a ruling on a potential conflict. Both my children are employed in the restaurant industry," and the Chair ruled, "no conflict."

Representative Awana continued to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker, I'd like to vote with reservations and ask that the words of Speaker Souki, as well as the good Representative from Kapolei be entered into the Journal as if they were my own. And just a few brief comments. I truly support minimum wage, but I think we truly need to look at living wage as a viable solution. In addition, I'd just like to include written comments into the Journal. Thank you."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations. Perhaps we can include the food service industries under this bill in a separate section. The minimum should not be the standard. We need to take a closer look at a living wage for the people of Hawaii. Thank you, Mr. Speaker."

Representative Lee rose to respond, stating:

"Thank you, Mr. Speaker. Still in support. I just want to make a correction. Earlier I mentioned a statistic that had minimum wage kept up with inflation today it would be over \$20. I meant worker productivity, rather than inflation. Thank you."

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

"Thank you, Mr. Speaker. With reservations, and can I request that the words of the Representative from Moanalua, and the Representative from Laie be adopted as my own. Also, just a brief comment. The Representative from Kihei mentioned that jobs had actually gone up after we increased the minimum wage the last time.

"The one thing that he didn't mention is that there was one industry in which jobs actually were lost, and that was the food and beverage industry. I think in that particular case, those are the people that are coming here telling us now that there will be jobs lost if we increase the minimum wage too high. So I think we need to keep that in mind. The last time we increased the minimum wage, jobs did go up, but not in the one industry that's claiming, again, that jobs will be lost. Thank you."

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

Representative Fale rose to respond, stating:

"Mr. Speaker, still with very strong reservations. May I have the words of the Representative from Kapolei entered into the Journal as if they were my own, as well as the remarks of the Representative from Mililani. I certainly do appreciate the economics lesson that we received, Mr. Speaker, from the good Representative from Kihei. Unfortunately, Mr. Speaker, the statements that I did make were not false.

"If we go back to every single time, I can show you, Mr. Speaker. I can tell you exactly right now. The impoverished communities, when we last raised the minimum wage, Mr. Speaker, are still the impoverished communities today. And before that, the impoverished communities before the last time we raised the minimum wage, two hikes ago, are still the impoverished communities today, Mr. Speaker. You tell me which communities have been raised out of poverty by increasing the minimum wage.

"When I approach something, Mr. Speaker. I love my sports, love my football, love my rugby. When I get on a team, when I'm working with a group of young individuals, I don't tell them we're going to lose less, or we're going to fail less. What I tell them, Mr. Speaker, is we're going to win.

"When I go to these communities and I knock on those doors and I talk to them one on one, I don't tell them, 'I want you to be less poor.' I don't tell them, 'I want you to have a little more money.' I want them to thrive, Mr. Speaker. Thrive. In some respects, Mr. Speaker, you could constitute that as inhumane, an inhumane treatment of these people. To just throw them a little bread just to get by from one day to the next and not give them exactly what they need to make sure that they thrive and grow, Mr. Speaker.

"You ever done that? I have a little plant by my door. Every time I leave, when I forget to give it a little water, it starts to wilt and leaves start to crinkle up. And then I give it a little water. Because I'll get the fertilizer and I'll give it the real water it needs tomorrow, tomorrow. And you see the stunted growth, right? I mean, it's alive. It's alive, Mr. Speaker. It's been alive for the last 16 months or so. And you see the frail, stunted growth of that plant. It's kind of ugly.

"It's the same principle, Mr. Speaker. If we don't water our communities with the proper resources that they need."

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

Representative Fale continued, stating:

"Mr. Speaker, if we look back at these communities, the ones that I'm talking about, the ones that have been generationally impoverished time after time we've increased. That's like, the little bit of water you give it. You see the stunted little growth, you see crime flourish, you see all these other activities that shouldn't be going on if they had a healthy, vibrant community. It's the same thing, Mr. Speaker. We throw them a little crumb. We throw them a little crumb every now and then, just to keep them going. Not really enough to get them going, but just enough to limp along.

"Mr. Speaker, that's not good enough. We could do better, Mr. Speaker. We should do better. I don't want to make anyone less poor. I want them to make sure they thrive. For those reasons, Mr. Speaker, I still have serious reservations in regards to this measure."

Representative Tokioka rose to respond, stating:

"Mr. Speaker, once again with reservations. I forgot to add something, and it's going to be less than 10 seconds, Mr. Speaker. We did have a lot of testimony that was submitted to the Finance Committee in the hearing. And it was a stack about this big. But what was obvious in that stack was that there was not one piece of testimony that came from any server, food server, bus person. Not one asking for us to increase, or to not allow their employers to take the tip credit.

"When I did ask the Department of Labor if they've ever had a complaint from anyone who was a tipped employee, asking about them having to complain about minimum wage, they said no. So, Mr. Speaker, I think if we're trying to help those servers with a better wage, they're not asking for it. Not one piece of testimony was proven in the Finance Committee. So thank you, Mr. Speaker. I just want to make it clear as Speaker Emeritus did, I do support the increases and the step increases in the minimum wage. So, thank you."

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise with reservations on HB 2580, HD1 which would steadily increase minimum wage over the next few years. I believe the end goal of HB 2580, HD1 is to find an appropriate way to help families afford the high cost of living here in Hawaii, which significantly affects our residents. The minimum wage is one way to potentially help our lower income population avoid poverty, but I strongly believe that we should be focusing our legislative efforts on lowering the cost of living.

"As I've spoken with small business owners in my community, many have concerns that raising the minimum wage too high could adversely impact their businesses, and I agree that a large increase would only increase poverty if business owners find themselves unable to operate and provide jobs.

"Previous versions of this measure would have been much more detrimental to the business community, and I appreciate that this measure attempts to strike a balance between the needs of job providers and workers. However, I still have concerns that this bill does not do enough to ensure that businesses will be able to afford the increases and continue to provide jobs for Hawaii's families. Most business owners will be able to afford the initial increase, but the Legislature will need to watch the issue and its impact on the economy closely as the increases in this bill take place.

"For these reasons, I vote aye with reservations."

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

Representative Har's written remarks are as follows:

"Thank you, Mr. Speaker, for the opportunity to provide additional written comments on HB 2580. While I support the intent of ensuring that the minimum wage is temporally appropriate to the price and value of one's labor, I too have strong reservations regarding the draft that has been presented for consideration. To reiterate, the proposed measure before us has received two hearings before standing committees in this Chamber – and I do not believe the current draft reflects the amount of input that it has received.

"It is important to note that the fundamental reasoning for a minimum wage increase is so that the lowest echelons of our workforce would

continue to receive a wage that is not just commensurate with the quality and value of their labor, but takes into consideration the cost of living and other expenses. To be clear, the minimum wage was and is not intended ever to be a living wage. As someone who has been paid minimum wage before, for everyone but the tip classes it is intended to be a 'training' wage that is only probationary in nature. The competitive work environment demands that businesses valued individuals in excess of the minimum wage to secure their loyalty and their continued employment.

"More importantly, the minimum wage was a tool to ensure an egalitarian society. Egalitarianism treats every person equally, regardless of any previous socio-economic classifications that they might have previously been characterized. It is the self-same concept that permits the upward mobility of many immigrant or impoverished classes within our society. I would simply call this the 'American Dream' – where anything is possible with hard work. In this respect, can and should always be rewarded. In the rare exceptions to this axiom, hard-working individuals are encouraged to seek out more rewarding opportunities in the marketplace of employment.

"While I have personally benefitted from the hard work of my parents in addition to the fruits of my own labor to participate in the 'American Dream,' I have serious reservations regarding the current draft before us for its treatment of tip-class employees. As someone who previously enjoyed the benefits of being a tip-class employee, I must make clear that these positions are not tip-class positions. Both my own experiences, the testimony of many restaurant owners and my conversations with many other individuals clearly reflect this. House Draft 1, currently before us for consideration, treats individuals that often collect wages and tips in the range of \$25 to \$40 an hour as minimum wage employees and gives them the same wage increase that the hard working kitchen staff and dishwashers need to make a living wage.

"House Draft 1 is nothing more than a thinly-veiled attempt to make the rich, richer. As a life-long member of the Democratic Party, this is a particular proposition that I have grave reservations toward. If rising tides were to float all boats, then this is an attempt to ensure that the gilded yachts of a handful of privileged individuals continue to ride higher than the dilapidated junks of the very people that we are trying to assist. Under the proposed increase, the same individuals that already take home pay at a rate of \$25 to \$40 an hour would receive a \$2 pay raise IF they accurately report their tips.

"While tip-class employees are required by law to accurately report all tips, the worst kept secret in the labor industry is that cash tips are at best inaccurately reported. The very same inaccurate reporting skews labor statistics used by the Department of Labor and Industrial Relations and other related agencies to accurately report a baseline poverty threshold. By using a 'poverty threshold', the House Finance Committee has done nothing more than perpetuate a culture of inaccurate reporting. It can be reasonably expected that any tip-class employee would skew their tips to ensure that their reported wages fall beneath the poverty threshold so that they would benefit from the additional one dollar increase to their base pay.

"To be clear, tip-class employees take home the same amount of money regardless of how accurately they report their cash tips. The 'poverty threshold' proposed in the HD1 would encourage borderline cases to perpetuate the culture of misreporting to ensure that each tip-class employee can make an additional dollar.

"Mr. Speaker, with respect to tip-class employees, it is no longer a matter of making a living wage. It is instead a matter of gamesmanship – using existing labor laws to ensure that they take home more than their fair share. While non-tipped employees are forced to pay their 'fair share', tip-class employees that fudge their reporting pay less into the same system for what they receive from government.

"And the status quo supports this culture of misreporting.

"Mr. Speaker, where is the fairness in that? Where is the egalitarianism? And why are we perpetuating bad behavior. Other bills that we are considering are supposed to level the playing field so the *proletariat* can

make a decent living while the *bourgeoisie* continue to exploit tax loopholes to support their lavish lifestyles. We are supposed to be closing loopholes, not opening them.

"The appropriate treatment of tip-class employees is integral to ensure that our businesses, especially our small businesses, can weather this storm. It is therefore paramount that the minimum wage increase is received by only the individuals that need it the most. An increase to the price of business is the unenviable drawback on the path to ensure that the minimum wage is temporally appropriate. By awarding a two or three dollar pay increase to tip-class employees who do not need it, we risk the solvency of many more small businesses than necessary. Small businesses. Mom-and-Pop businesses.

"Mr. Speaker, I remember when I could buy a manupua on Waiiale Avenue for less than a dollar. It was less than 10 years ago. Are we willing to trade our mom-and-pop businesses so that the rich can just get richer?

"On a final note, the poverty threshold is not pro-rated toward the number of hours an employee works in a week. Consider a tip-class employee that works two part-time jobs for 20 hours a week at each job. Let us say that this employee takes home \$25,000 per year from each of the part-time jobs. When considered *en totale*, this very same employee is paid in excess of a \$30,000 poverty threshold to the tune of \$50,000. This same employee who clearly exceeds the poverty threshold would be entitled to the one dollar tip credit that is being reserved only for the individuals who require it the most. Each employer would be required to pay this tip-class employee the one-dollar tip credit because they do not meet the poverty threshold for each individual employer.

"This is just further evidence that the minimum wage measure before us, proposed with the most egalitarian of intentions, is nothing more than a tool to make the rich, richer. I hope to have the opportunity to fully support a temporally appropriate wage for all employees in future iterations of this or related measures. In order for this to happen, all potential abuses of labor law should be addressed to ensure that the most egalitarian of intentions are not corrupted by the *bourgeoisie*.

"For these reasons Mr. Speaker, I continue to have reservations regarding this measure."

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

Representative Tsuji 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. 2580, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Hanohano, McDermott and Say voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 902-14) recommending that H.B. No. 1911, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1911, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Just strong reservations."

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

"Mr. Speaker, strong reservations."

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

"Mr. Speaker, in opposition. Mr. Speaker, I know that the current bill has been amended to be just a study. But, Mr. Speaker, in its original form it was a bill that would impose a nonresident, noncommercial, so it would be a recreational saltwater fishing fee.

"Now, I have no bones to pick about charging visitors a nominal fee, especially if we establish retail locations as licensed agents. It could definitely help bring in foot traffic to our local mom and pops that specialize in selling fishing supplies, much like what Alaska does.

"However, if you review the testimony from DLNR as it pertains to the original bill, you'll note that the department wants to create a license and fee for both residents and nonresidents. In fact, they say, and I quote, 'The scope of the proposed bill should be broader to include both residents and non-residents who engage in non-commercial fishing. However, the licensing mechanism will require further analysis to determine how it should be implemented.' Thus, Mr. Speaker, the study we have in front of us at this very moment. I have the utmost respect for DLNR in the work that they do, but I have not been convinced that this is necessary.

"Mr. Speaker, here in Hawaii, fishing is more than recreation. It's a way of life. Just as much of a way of life as hunting, surfing, lei making, hula, and so on and so forth. And here, Mr. Speaker, we have tasked the very department that has already said that they wish to have residents be required to be licensed. Well, Mr. Speaker, I can almost tell you what the results of the study is going to be.

"Currently, Mr. Speaker, we require everyone who freshwater fishes, ages 15 and up to 64, be required to pay and attain a license. Ages 9 to 15 are required to pay a reduced fee and must attain a license. Nine and below require no license, but they must be accompanied by a license holder.

"Mr. Speaker, I know some youngsters who have parents that work two or three jobs, some are from families with one parent. But for these kids, for these kids who are not involved in football, baseball, basketball, soccer, and some of them that are without adult supervision, fishing is their babysitter. It keeps them occupied, it keeps them safe, it keeps them off the streets.

"Mr. Speaker, I stand with respect to the author of the bill and the Department of Land & Natural Resources, but I humbly disagree. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition and I'd like to ask that the words of the Representative from Kapaa and Hanalei be inserted into the Journal as if they were my own, and especially his passion about this issue. Thank you very much, Mr. Speaker," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, same request for the same remarks. Mr. Speaker, I would only give one analogy. This is like we passed the Law of the Splintered Paddle, but then we say, 'By the way you got to get a license to pass by this thoroughfare here.' I think this is really anathema to the Hawaiian lifestyle and who we are as Hawaii being distinct from other places that you've got to have a license and a 'mother may I' to do everything.

"This is really contrary to the Hawaiian sense of place, the spirit of Hawaiiiana, and I totally agree with the Representative of Kauai. This will change our lifestyle. But again, it's just for the sake of getting some money. That's what the whole thing's about. So let's follow the money, let's follow this thing and kill it. Thank you."

Representative Cullen rose in opposition to the measure and asked that the remarks of Representative Kawakami be entered into the Journal as his own, and asked that his written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Cullen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1911, HD1.

"I rise in opposition because of its sole purpose – to require the Department of Land and Natural Resources to conduct a study examining the feasibility of establishing a noncommercial fishing license program. By doing such, the bill is not protecting our aquatic resources.

"Instead, by charging our residents a fee for a sport that is supposed to be recreational and enjoyable ... and free ... we begin to diminish a favorite form of gathering for many families. History has shown that it is inevitable for a fee to not increase over time, and I believe that in time, if the Legislature does pass this bill and it becomes law, the fee for the required noncommercial fishing license will increase.

"It is a hidden tax on our residents.

"It is a hidden tax that we will eventually realize that not many residents will want to pay, and as the number of residents who fish recreationally slowly decreases, I am afraid that a part of our culture will die before future generations are able to enjoy and experience a sport that generations before them were able to enjoy and experience."

Representative Awana rose in opposition to the measure and asked that the remarks of Representative Kawakami be entered into the Journal as her own, and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. Mr. Speaker, as a youth, my cousins and I spent much time fishing. There was much to be learned fishing – patience while waiting for a bite on the hook, humility when the fish got away, and teamwork when we helped each other bring the big one onto the shore. Even the thought of going down this road to study whether or not we are allowed to practice our native Hawaiian rights just turns my stomach. I am sure the discussion of engaging and spending funds and labor hours in such and endeavor is not *pono*. I am in strong belief that many of our local people are not aware of what is going on. I will not go back to my district and inform them that I voted in favor or that I voted with reservations. Fishing is a local pastime that helps to bond families, learn about our culture, and experience Hawaiian traditions. For this reason, I rise in opposition."

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

"Thank you, Mr. Speaker. I rise in support. As the Chair of Water & Land, we heard the bill in our Committee and we changed it quite a bit, actually. What we said is, the Aquatic Resources Division has a responsibility to really look at our natural resources and manage it. I hear the Representative from Kauai who does not have trust in the department, but I want to point out that what this bill is about is looking at a study and bringing it back to the Legislature. So the people we have to fear is ourselves if we're worried about this.

"Part of it I want to point out is, we want them to look at our gathering rights, traditional and customary. We want to look at reporting requirements, if there's fish that's taken. Should or should there not be restricted areas for fishing? Should there be penalties if people are violating and maybe overfishing? I mean, it was just this big attempt to look at, are we really managing our fishery? Is this the time to really look at that? It's interesting that we're afraid of ourselves, because again, I think this is about the aquatic resources. If we're going to have resource management in Hawaii, either we step up to the plate and do it or we just back off and we don't do anything. I think doing nothing is not the way to go. But again, I think this study can come back and maybe we just say, 'hands off, we're not going to do it.'

"The other thing that I want to point out is, there was a lot of discussion in our committee about the administrative rules process and how there's maybe, are they doing marine reserves? Are they doing no-take areas? Are they using administrative rules to move forward on resource management? And if they are, they're actually doing it without any oversight by this Legislative Body. And is that what you want, too? Because reality is, they

may be out there managing it and we don't like what they're doing, and we wouldn't even know, because they may be doing it by administrative rule. So, it may be time to really take a look at what this department is doing if we don't trust them. So, I think the study could help us. So, thank you."

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

"Mr. Speaker, with reservations. I also have reservations about this bill in regards to licensing local fishermen who are doing it recreationally. This has been something that historically we've done for forever. And I think to impose that kind of licensing on our local fishermen is really against everything that we stand for.

"DLNR, in regards to how they conduct their business, I also have some concerns about that. Just recently they ruled that you can no longer do any diving or spearfishing on the west side of Hawaii, Hawaii Island. I think that it caused a lot of people a lot of concern because what they said is they're going to do the ban and then they're going to study whether or not it needs a ban. So again, I stand in reservations. Thank you."

Representative Kawakami rose to respond, stating:

"Thank you, Mr. Speaker. Still in opposition. I'd just like to correct for the record that it is not a trust issue, as the Chair of Water & Land has said. It is not not having trust in the department. It's just humbly disagreeing. When we allocate millions of dollars for the Rain Follows The Forest program, we are putting a lot of trust in the department. So it's not a trust issue. It's just an issue of disagreement. Humble disagreement. Thank you."

Representative Evans rose to respond, stating:

"Thank you. The Representative from Hawaii Island reminded me. I just want to point out to my colleagues that regarding we do charge a license for our hunters that use our land. And we do that I believe, hopefully, for game management. But having said that, there's some bills this session to try to deal with DLNR doing a better job of game management areas. So, thank you."

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

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

"*Mahalo ho'omalu 'ōlelo.* Thank you, Mr. Speaker. *Kakao'o 'ole loa.* In strong opposition. *He pila hewa kēia.* This is a wrongful bill. *Ike ole ke ke'ena na waiwai 'o Hawaii 'o kēia ke'ena a'ohe hana ko lako kuleana.* DLNR has not been knowledgeable about what they're doing and it's not being responsible. *Mahalo.*"

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

"Mr. Speaker, standing up with reservations. Mr. Speaker, I would like to highlight that in this bill it states very clearly that is the purpose of this act is to, '(1) Require the department of land and natural resources to conduct a study examining the feasibility of establishing a noncommercial fishing license program.' So, Mr. Speaker, it states in the bill itself, that the sole purpose of this study is to determine if local residents will be charged, the feasibility of charging them a licensing fee.

"Also, Mr. Speaker, in Section 2 under 'the study shall consider', the number one issue that they will consider is whether a noncommercial fishing license program should be established.

"Mr. Speaker, this is not looking to see if our fisheries are viable. Mr. Speaker, it's not looking at if DLNR is good stewards of the ocean. This is specifically targeting the issue of having residents, local residents, for recreational purposes, to get a license to fish.

"Mr. Speaker, I am not a fisherman. I don't have the patience. However, I do want the opportunity, and I think many families do, if my sons want to go to fish, I would like the opportunity to take them fishing and teach them the importance of protecting the *'aima*. Thank you."

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

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

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

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

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

Representative Fale rose in opposition to the measure and asked that the remarks of Representative Kawakami be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In support with reservations, if I may. I would like the words of the speaker from Hilo entered into the record as if they were my own. However, I do see that this mechanism could provide a way to keep the department from pursuing things through rules, like what happened in West Hawaii. So that's why I am with reservations. Although, I do have a correction from the speaker from Mililani, because I see him fishing for compliments all the time. Thank you very much, Mr. Speaker."

Representative Har rose in opposition to the measure and asked that the remarks of Representatives Kawakami and Onishi be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

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

"Thank you, in support with some slight reservations. I know that might surprise some people because everyone thinks of me as a big environmentalist. And I do think this is very well intended and that we do need to make sure we're protecting aquatic resources for future generations. But because fishing's such a huge part of the culture here in Hawaii, I think that we have the best chance of success of protecting these resources if we make sure the effort is community led.

"If we start with education and outreach about what the existing regulations already are and how to be a responsible fisherman, if we try to impose a fishing license with a fee from the top down, just even judging from the number of reservations that we're hearing right now, I think it would be likely to just be a non-starter."

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

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

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

"May I have ruling on potential conflict of interest? Mr. Speaker, I sit as the chair of an advisory group that is discussing fishermen and entering a state park. Thank you very much," and the Chair ruled, "no conflict."

Representative Awana rose to respond, stating:

"Thank you, Mr. Speaker. I'm just compelled to speak on this issue because it's so near and dear to my heart. I'm still rising in opposition. As a youth my cousins and I spent much time fishing. And there was much to be learned. Patience while waiting for a bite on the hook, humility when the fish got away, and team work when we helped each other bring the big one onto shore.

"Even the thought of going down this road, to study whether or not we're allowed to practice our native Hawaiian rights, just turns my stomach. And I'm sure the discussion of engaging in spending funds and labor hours in such an endeavor is not *pono*. I'm in strong belief that many of our local people are not aware of what's going on. For these reasons, Mr. Speaker, I still stand in opposition."

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

"Reservations please. Mr. Speaker, I see that two introducers of the bill have changed their position. One is now a 'no' and the other is 'with reservations'. I think that it may be a better situation to recommit the bill to committee and possibly go with a resolution asking for a broader study, where you reach out to the local fishing community. I'm not making a motion to do that, but I thought that if it would be possibly in the best idea to do that, and we could take a recess possibly, and people could think about that recommittal. Thank you."

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

At 6:31 o'clock p.m., Representative Tokioka requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:33 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1911, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," passed Third Reading by a vote of 39 ayes to 12 noes, with Representatives Awana, Cullen, Fale, Fukumoto, Hanohano, Har, Ito, Kawakami, McDermott, Morikawa, Tokioka and Ward voting no.

At 6:36 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2276, HD 1
 H.B. No. 2597, HD 2
 H.B. No. 2263, HD 2
 H.B. No. 1994, HD 1
 H.B. No. 1841, HD 1
 H.B. No. 2580, HD 1
 H.B. No. 1911, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 903-14) recommending that H.B. No. 1499, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1499, HD 1 pass Third Reading, seconded by Representative Cabanilla.

At 6:36 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:37 o'clock p.m.

At 6:38 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:38 o'clock p.m.

At this time, Representative Oshiro offered Floor Amendment No. 1, amending H.B. No. 1499, HD 1, as follows:

"SECTION 1. House Bill No. 1499, H.D. 1, is amended by deleting its contents in its entirety.

SECTION 2. House Bill No. 1499, H.D. 1, is amended by inserting the following:

"SECTION 1. The legislature finds that House Bill No. 1499 was intended to amend the Hawaii State Constitution to address one aspect of the United States Supreme Court's controversial decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). The legislature shares concerns about *Citizens United*, but has serious reservations about the measure in both its original version and the House Draft 1 version. Unfortunately, the proposed constitutional amendment, if ratified, cannot have any practical effect. The State of Hawaii remains subject to the *Citizens United* ruling construing the federal Constitution, regardless of any amendment made to the Hawaii State Constitution. Consequently, the legislature declares that House Bill No. 1499, and its subsequent version, House Draft 1, cannot effectuate its intended purpose.

The legislature further finds that amending the text of the Hawaii State Constitution is within the State's power, but doing so in this manner will have no practical legal effect due to *Citizens United* and earlier case law from the United States Supreme Court, including *Buckley v. Valeo*, 424 U.S. 1 (1976), interpreting the federal Constitution. *Buckley* is the foundation of modern campaign finance case law. Among the many rulings in that case, the United States Supreme Court held that contributions and expenditures of money made for the purpose of influencing an election are entitled to the protections of the First Amendment. Id. at 15-17.

The federal Constitution is the supreme law of the land. Therefore, even if this measure, in its original form or in the form House Draft 1, was enacted and ratified into law, the State of Hawaii would still be subject to the ruling in *Buckley*, as well as the ruling in *Citizens United* that corporations are entitled to make unlimited independent expenditures regarding elections. Even if the Hawaii State Constitution was amended, state laws would still be subject to the United States Supreme Court's federal constitutional rulings about money used to influence elections. Only an amendment to the federal Constitution – or a subsequent overruling decision from the United States Supreme Court – can undo the *Citizens United* decision or the broader proposition regarding First Amendment protections for contributions and expenditures under *Buckley*.

In addition, the legislature acknowledges that if this measure, in its original form or the House Draft 1 form, is placed on the ballot, it would create the impression that it would be legally effective to address and overturn the unpopular *Citizens United* ruling. Because the proposed amendment would not have such legal effect, this impression would be misleading.

Accordingly, the purpose of this measure, in the version House Draft 2, is to make this measure inoperative in light of *Taomae v. Lingle*, 132 P.3d 1238 (2005).

SECTION 2. This Act shall take effect upon its approval."

At 6:39 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:39 o'clock p.m.

Representative Oshiro moved that Floor Amendment No. 1 be adopted, seconded by Representative Say.

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

"Thank you, Mr. Speaker. The floor amendment before us basically will do several things. First of all, it will have the effect of stopping House Bill 1499, House Draft 1 from passing from this Chamber. I've shared with the Body many times in previous discussions. I believe there's a fatal flaw, not so much in this bill itself but a fatal flaw in our approach to what this measure seeks to do.

"My understanding is that this bill seeks to undo a terrible, terrible, terrible Supreme Court decision called Citizens United. By which, you have different organizations including public unions and corporations unfettered expenditure through non-candidate committees. And it's a terrible decision because it basically set aside almost 50 years of good law on the books and in practice by many states and the federal government.

"But the flaw in this bill, Mr. Speaker, is that this will have no effect on the Citizens United case. In fact, according to the Attorney General, this might have the unintended effect of maybe misleading our voters as to what this constitutional amendment would do.

"I've been around long enough, Mr. Speaker, to know that you don't amend the constitution without a darn good reason, a very good reason. It is the fundamental foundational doctrine or law of the land. And so, when we look at constitutional amendments of any provision in any sorts, you need to look at it as a very measured and limited proceeding for extraordinary requests and needs.

"In this case, my understanding is that it will have merely a symbolic, symbolic effect upon the nine Supreme Court jurists at the United States Supreme Court, and/or maybe the Congress in Washington D.C. But it would have zero effect upon the Citizens United decision. I find that very troubling, Mr. Speaker, so I've taken it upon myself to attempt to slow this bill down, to maybe set it aside through this amendment.

"This amendment, because it's a constitutional amendment and according to a Hawaii Supreme Court decision, which is still good law, would basically kill this bill should it pass through this Chamber and should it be endorsed by the Governor, for constitutionally being a defective bill, not having the requisite Three Readings. So that's what it does.

"But I would really encourage the Members to just look at the amendment itself that's before you. It's about a page and a half. It's basically a recitation of the Attorney General's submittal to the respective chairs, raising the concern and pointing out the black letter law, the simple truth, the simply legal fact that this constitutional amendment will have no legal effect, will not do anything to address the Citizens United decision, and in fact would be misleading to our voters.

"I wish I wasn't standing before you, Mr. Speaker. I wish there was another way of doing this. Maybe we should look at putting in a concurrent resolution and address it to our congressional delegation to implore them to seek a change in the campaign spending laws to address the gaping loophole that Citizens United created, and the evils that we all agree exist today.

"But this doesn't do it. I'll be the first to sign on a concurrent resolution asking our congressional delegation to do that. I'll be the first to even write a letter to the Supreme Court justices, asking for them to reconsider the Citizens United ruling in current cases pending on the current docket, as we speak. But again, Mr. Speaker, this won't do it. And that's why I have this floor amendment before us. Thank you."

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

"Thank you, Mr. Speaker. In opposition to this floor amendment. Thank you, Mr. Speaker. With all due respect to the Attorney General's Office, their testimony is simply just a statement that this amendment would have no legal effect. I do not see any citations to legal principles, principles of constitutional construction, or case law. I would submit that it is an open question, an open legal question that will only be determined by either our Hawaii Supreme Court or the United States Supreme Court on what effect this amendment would have.

"And I would state for the record, Mr. Speaker, that there are principles of constitutional construction that allow us, as a state, with the sovereign right to adopt in its own constitution, individual liberties more expansive than those conferred by the Federal Constitution. We need only look at the fact that there's the resign-to-run rule that allows for sitting Members of this, at the state level, to be able to run for federal office. But we don't have

that same kind of constitutional right. For us to run in another state office, if we were sitting in an office, we'd have to resign.

"So there are different levels of constitutional protections, and I again submit, Mr. Speaker, what we have before the United States Supreme Court, *McCutcheon v. FEC* is Citizens United two. And if the Supreme Court decides to strike down all overall contribution limits, perhaps the only thing that's going to protect the state election process and the floodgates of corporate money infusing our system would be an amendment such as this one. So, Mr. Speaker, in strong opposition to this floor amendment. Thank you."

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

"In opposition to the amendment. The amendment is, I can't say I've ever seen anything like this in my seven years in office and six years as staff before that. It basically is an amendment that says we should vote against the bill. So I would say reject the amendment and let's debate the actual bill. *Mahalo*."

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

"Mr. Speaker, I rise in support of the amendment. Mr. Speaker, this Body has in the past voted things that are marginally constitutional, but those were in-house. Those were bills that represented our opinions. That was inside baseball. This one says, 'Let's go out to the public.'

"Now no one has talked about the special session, but the special session, everybody saying, 'Hey, 1998, you guys did a constitutional amendment and it said thus and such.' I would submit, Mr. Speaker, our credibility is on the line if we pass this, the way it is with this amendment. It's going to be what you guys said, that Citizens doesn't count in Hawaii. Isn't that what you put it up to us for? Even though, quite frankly, this is just a statement of this Body and should be to this Body, not something we bring out the public and confuse them again like we did 1998. Even though technically it was pure in terms of how it was meant, it was misunderstood.

"I think this one would certainly be misunderstood, because I don't think anybody in here is saying, 'Hey, all corporate money, we want to take it all on. All labor money, we want to take it all on.' No. But to do it in this way in putting it before the public, rather than as a resolution or a bill that passes within this bill representing our opinions, rather than taking it out and confusing the public. I think it's very risky the way we're dealing with this. And that's why this amendment makes it very straight. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support of the floor amendment. Because, Mr. Speaker, I'm not in support of the current version of HB 1499, and this gives me an option. And I would like to be on the record in support of this floor amendment currently.

"I don't feel very comfortable moving things forward that gives our constituents some symbolic thought to put out there. I understand the mechanisms of what the introducer is trying to do with this, I truly do. And I think a resolution going up to our congressional delegation will be a lot more effective. And that will be public record. We didn't have to do something like this, without trying that first step first. So, I'm in support of the floor amendment currently, Mr. Speaker."

Representative Rhoads rose to respond, stating:

"Thank you. Still in opposition. I did want to point out that last year, we did pass H.C.R. 10 out of this Body, which requested the United States Congress to propose a constitutional amendment to overturn the United States Supreme Court's holding relating to corporate independent expenditures in Citizens United. So we passed it, the Senate did not. But this Body did, and this is a stronger statement than the reso, but we have tried the resolution very recently.

"With regards to the confusion on a ConAm, well there's a lot of confusing ConAms that go out there. If you asked a regular guy who's never had to deal with SPRBs to try to get them to explain what they're voting about for adding SPRBs for agricultural purposes or, there's a whole variety of them. Most people don't know anything about bonding, don't have any idea what that is. So I think you assume in a democracy that people are going to be informed, and if the instructions for the ConAm are, translated out of legalese, it shouldn't be any more of a problem on this proposed ConAm than on any other ConAm. Thanks again."

Representative Fale rose in support of the proposed floor amendment and asked that the remarks of Representative Ward be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I recognize it's going to be voice vote. Can I state my vote right now? Aye for the floor amendment."

The motion that Floor Amendment No. 1, amending H.B. No. 1499, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION REGARDING THE FREEDOM OF SPEECH," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Belatti and Rhoads voting no, and with Representative Morikawa being excused.

(Main Motion)

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

"Mr. Speaker, I'm going to be standing in opposition to the bill before us. Again, I wish I wasn't standing here in front of this Body and my colleagues. I think we all know what this bill does and does not do. I'm looking at the State Constitution, so my colleague from Makiki is correct. We have a provision, Article II, Section 7, Resignation From Public Office. And that's part of the 1978 Con-Con. Back in 1978 it was part of a package of election reforms that were passed back in 1978, and thankfully, fortunately, adopted, ratified by the voters.

"It's part of the Article II, Sections 5, 6 and 8, which dealt with partial public financing, spending and contribution limits, and elections. And it authorized the Legislature to have the authority to establish a campaign fund to be used for partial public financing of campaigns, and the Legislature shall provide a limit on the campaign spending of candidates. That's from 1978, ratified November 7th of 1978. Article III, Section 6, limitation on campaign contributions to any political candidate or authorized political campaign organization for such candidate for an elective office within the state shall be provided by law. Again, it's a constitution amendment, 1978, ratified by the voters November 7th, 1978, and of course, the other resignation from public office. Those are all part of the general election ballot, 1978.

"I think we had 34 different amendments coming out of the constitutional convention. I think it was one of the last times we had a state constitutional convention. So I reviewed some of the minutes on the discussion and debate. Buckley v. Valeo was being discussed. It was the Supreme Court's ruling at that time. But at that time, Mr. Speaker, these delegates knew what they were doing. In fact, someone mentioned his name earlier today, former Governor Waihee. And Governor Waihee understood the import and what we could and couldn't do without State Constitution and our state campaign laws, at the United States Supreme Court's Buckley v. Valeo decision.

"If this thing goes out, Mr. Speaker, as a constitutional amendment, and we can explain what a special purpose revenue bond, SPRB is, a type of mortgage that's going to be serviced by those who are benefitting from the expenditure of funds, having a revenue stream to build or erect some building or infrastructure. That can be explained. But I don't know how I'm going to explain this to my constituents, by saying that this constitutional amendment, that you are going to be paying for, that you're going to be

buying through your endorsement or not, is going to have one iota of effect upon the federal constitutional as interpreted by the federal United States Supreme Court in the Citizens United case.

"Because if anyone asks me that, the answer to them would be simply, 'no'. And so, if they ask me why am I using public monies and putting this on the ballot with some other important constitutional amendments, such as using public funds to erect the universal early education program through the State of Hawaii, or to allow, again, special purpose revenue bonds to be used for agricultural purposes. If they ask me about this particular amendment, the only answer I can give them is to send a message for the symbolic value that it has. But as far as any effect upon our laws or the constitution of the United States of America as interpreted by the United States Supreme Court, it would have none. And that's why I'm voting no, Mr. Speaker. I ask for permission to insert further written comments. Thank you."

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I am strongly opposed to this bill. For the life of me, I cannot understand what it is with Majority Leadership and the Chair of the Judiciary Committee. Let's be very clear – approval of this bill misleads our people. It will make people believe we are approving meaningful campaign spending reform, but in fact, if this bill is approved, we will be asking our citizens to ratify an amendment to our State Constitution that even if ratified, would not change a single thing.

"As discussed at length during the debate on Floor Amendment No. 1, the only way the *Citizens United* and *Buckley* decisions can be overturned is by either amending the FEDERAL Constitution – not the State Constitution – or having the United States Supreme Court reverse its decisions in those hallmark cases. As testified by the Attorney General of the State of Hawaii, our top legal official, amending our State Constitution will have no effect whatsoever on the application of *Citizens United* and *Buckley*.

"So why are we doing this? My colleague from Chinatown, the Chair of the Judiciary Committee, says it is a 'symbolic gesture. 'Symbolic gesture'? Is he serious? If he wants to make 'symbolic gestures', he should take his \$50 bill and buy a ream of paper, and start a petition within his community. He can then use the rest of the money for postage to send the petition to the Chief Justice of the United States Supreme Court. That would be a lot more effective than wasting our taxpayers' time and resources on a measure like this. Putting a \$50 bill in front of a microphone and asking it questions might get funny media play, but it just makes all of us – ALL OF US – look incompetent.

"I am deeply offended that this measure is actually up for Third Reading. How will anyone take what this Body does seriously?"

"For the record, I attach herewith the Attorney General's written testimony on this bill before the House Committee on Judiciary, dated January 28, 2014. What does anyone not understand of the testimony? To even contemplate amending the Hawaii State Constitution, the highest law of this state, in this fashion destroys any credibility this Body has with the public.

"If this Body wants to get serious about campaign finance reform, the proper way of doing it would be to ask our Congressional Delegation to introduce FEDERAL legislation to undo the *Citizens United* and *Buckley* decisions. They would need to propose a bill to amend the United States Constitution to clarify that the Freedom of Speech guaranteed by the First Amendment not apply to corporations or unions. We could also request the United States Supreme Court to reverse its decisions in *Citizens United* and *Buckley* in cases that are currently before that body. But the way to do either or both is not through the passage and ratification of a bill proposing an amendment to the Hawaii State Constitution. It would be through the adoption of a Resolution.

"And so, as I stated during my remarks on the floor amendment, I will be introducing a concurrent resolution that would do just that, and I strongly urge every Member of this Body to support it.

"That is the proper way of addressing campaign finance reform. Not this.

"I would also like to rebut a point raised by my colleague from Kakaako, the Majority Leader, who said there is precedent in amending the Hawaii State Constitution to counter a decision rendered by the United States Supreme Court.

"He cites Article II, Sections 5 and 6 of the Constitution of the State of Hawaii, which reads:

CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law.

"The Majority Leader said that the Hawaii State Constitution was amended in this fashion knowing that the limitations proposed could not be effectuated in light of the *Buckley* decision. He stated that despite this the Hawaii State Legislature proposed an amendment to the Hawaii State Constitution as a 'symbolic gesture' to oppose the *Buckley* decision.

"The Majority Leader should do his homework. First, the provisions that make up Article II, Sections 5 and 6 were not initiated by the passage of a legislative bill. It was actually recommended by the Constitutional Convention of 1978, and placed on the ballot after those provisions were approved by that body. In other words, the conventioners and not the Legislature proposed the amendment.

"In the debates of the Committee of the Whole on September 11, 1978, the comments of Delegate Weatherwax explain why these provisions were recommended:

*"The next section deals with public campaign financing; it directs the legislature to begin a public financing fund for the purpose of assisting candidates in partial public financing along the lines of a matching fund concept, which was one of the concepts discussed in the committee. It also talks about a spending limitation – and again these concepts should be kept separate. For instance, the spending limitation would be on the candidate, and under present constitutional law this is permissible, under the case of *Buckley v. Valeo*, when in fact public financing is provided. So if the candidate accepts public financing, a spending limitation may be imposed on him. The committee proposal, however, does take it a step further and suggests that spending limitations be included for all candidates running for office. There is some question as to the constitutionality of this. However, I believe it was the intention of the committee that a reexamination of the *Buckley v. Valeo* case should be undertaken to determine whether in fact it is constitutional or unconstitutional. And this would be a beginning step toward that."* [See, *Proceedings of the Constitutional Convention of Hawaii of 1978, Volume II Committee of the Whole Debates*, page 701.]

"In other words, Delegate Weatherwax said that while there is some question as to whether a restriction can be legally imposed, the provision should be enacted to ensure that the courts further examine this issue. This is a very different statement than what is being proposed in this bill – a situation where legal experts know conclusively that such an amendment cannot withstand muster. Again, the Attorney General's written testimony is a very clear recitation of what would be described as 'black letter' law.

"Delegate Weatherwax continued by stating:

*"There, of course, have been some questions as to the spending limitations, and I would hope that you remember that contribution limitations, the disclosure requirements which are presently in the statutes, and the public financing. Presently under *Buckley v. Valeo*, spending limitations are permitted when in fact voluntary financing is undertaken. I believe there is a possibility that *Buckley v. Valeo* should be examined by the State and by the courts again as to whether or not in fact there is an infringement on the First Amendment right. I believe in balancing the two problems of the First Amendment right to free speech, that the infringement is not that great, and that in fact political corruption is an evil which should be corrected. . ."* [Id., page 787. Emphasis added.]

"Again, because the Constitutional Convention was convened (July 5, 1976) after *Buckley* was issued (January 30, 1976), Delegate Weatherwax believed there was much uncertainty at the time on how that decision would be implemented and how it would affect campaign finance laws in Hawaii and across our nation. And it was because of this uncertainty that he and his fellow delegates put forth the text found in Article II, Sections 4 and 5. . . to let the courts further harmonize the principles of campaign finance laws with the freedom of speech.

"I say again. . . what Delegate Weatherwax said was this – The Constitutional Convention put in these provisions to HARMONIZE our Constitution with the *Buckley* Decision, not to put in defective language just to make a point. After all, as he stated, 'Presently under *Buckley v. Valeo*, spending limitations are permitted when in fact voluntary financing is undertaken.'

"If, for sake of argument, the Majority Leader meant that the Constitutional provision was inserted despite not knowing whether it would pass muster, yes, there is some truth to this. But keep in mind, at the time of the Constitutional Convention, the *Buckley* case was less than six months old, and it was approved by a 5-4 vote. At that time, no one knew what the ramifications of that decision would be.

"And so, for sake of argument, even if those provisions were put in to make a statement, it didn't make it the right thing to do. Don't take my words for it, take the words of then-Delegate Joseph M. Souki who stated:

*"My fellow delegate from Haleakala said that if this is not in violation or unconstitutional under federal law, it should be. I would like to give him the good news that it may well be. In April of this year, the U.S. Supreme Court, in *First National Bank of Boston v. [Francis X.] Bellotti*, declared unconstitutional a Massachusetts law which prohibits corporations from making payments, expenditures or contributions for the purpose of effecting the vote on referenda matter; and Justice White in his dissenting opinion says that by holding that Massachusetts may not prohibit corporate expenditures for contributions made in connection with referenda involving issues having no material connection with the corporate business, the court not only invalidates the statute which has been on the books in one form or another for many years but also casts considerable doubt upon the constitutionality of legislation passed by some 31 states restricting corporate political activity, as well as upon the Federal Corrupt Practices Act. So we find ourselves again putting into a constitution a mandate to the legislature, or a direction to the legislature, to take some action which is currently at least of questionable constitutionality. We are not making a constitution when we do this, we are legislating. Not only are we legislating but we are legislating in a very irresponsible way, because we are telling them to do something but we are not taking the responsibility of figuring out how it should be done, and we're not taking the responsibility of making the hard decisions which should go with legislation – that is, how much does it cost, how can you do it in a way that is practical, how can you do it in a way that is constitutional. Again we are venturing into areas where we do not belong, and I would urge you to stay away from those areas." [Id., p. 806. Emphasis added.]*

"So even if you agree with the Majority Leader that there is precedent, we should heed the words of Delegate Joseph M. Souki those many years ago – that this is the wrong thing to do.

"Mr. Speaker, the insightful comments from the Representative from Lahaina should also give us reason to pause and reconsider what the majority is attempting to do. He raised a valid point of significant consequences that I believe has not been considered by the House Leadership or the Chair of the Judiciary Committee – What happens if the proposed Constitutional Amendment is defeated by the electorate? After all, considering the more than \$3 million that was previously set aside for voter education on ballot measures was eliminated from the budget in part due to problems resulting from the 1998 Same-Sex Marriage amendment, and that blank votes count as 'no', there is a strong possibility that our people will not know what they will be voting on and as such, the ballot question might be defeated. What then? Does this mean our collective opposition to the *Citizens United* decision will now be trumped by the will of our constituents and voters?"

"In the nearly 20 some-odd years that I have been a Member of this House, I have never come across a bill that so makes a mockery of our laws and the legislative process as this. This measure is utterly contemptuous and reveals a low regard for the Constitution of the State of Hawaii and its people. As a legislator whose forbearers sacrificed all for the rights and privileges of citizenship under our Constitution, I can stomach no more this insult to their sacrifice and legacy. I can no longer bite my tongue. It grieves me tremendously and leaves me stunned beyond words. It is unbelievable that this bill will likely pass Third Reading today. I can only hope that the Senate will do the responsible thing and kill this bill."

Representative Oshiro also submitted the following:



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:
H.B. NO. 1499. PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION
REGARDING THE FREEDOM OF SPEECH.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, January 28, 2014 TIME: 2:00 p.m.
LOCATION: State Capitol, Room 325
TESTIFIER(S): David M. Louie, Attorney General, or
Deirdre Marie-Iha, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General understands that the intent of this bill is to amend the Hawaii Constitution to address one aspect of the United States Supreme Court's controversial decision in *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010). The Department shares the Committee's concerns about *Citizens United*, but has serious reservations about this bill. Unfortunately, the proposed constitutional amendment, if ratified, cannot have any practical legal effect. The State of Hawaii remains subject to the *Citizens United* ruling construing the *federal* Constitution, regardless of any amendment made to the Hawaii Constitution. Consequently, the Department respectfully urges this Committee to hold or defer this bill.

Amending the text of the Hawaii Constitution is within the State's power, but doing so in this manner will have no practical legal effect due to *Citizens United* and earlier case law from the United States Supreme Court, including *Buckley v. Valeo*, 424 U.S. 1 (1976), interpreting the *federal* Constitution. *Buckley* is the foundation of modern campaign finance case law. Among the many rulings in that case, the Supreme Court held that contributions and expenditures of money made for the purpose of influencing an election are entitled to the protections of the *First Amendment*. *Id.* at 15-17. The federal constitution is the supreme law of the land. Therefore, even if this proposed amendment passed and was ratified, the State of Hawaii would still be subject to this ruling from *Buckley*, as well as the ruling from *Citizens United* that corporations

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are entitled to make unlimited independent expenditures regarding elections.¹ Even if the State Constitution was amended, our laws would still be subject to the Supreme Court's *federal* constitutional rulings about money used to influence elections. Only an amendment to the *federal* constitution—or a subsequent, overruling decision from the United States Supreme Court—can undo the *Citizens United* decision or the broader proposition regarding First Amendment protections for contributions and expenditures from *Buckley*.

Second, we are concerned about the breadth of the provision as it applies to expenditures to "promote lobbying." Page 1, line 16. Read literally, this provision could be read to deny the State Constitution's free speech protections for all activities supporting lobbying, because those activities would involve "the expenditure of money[.]" Lobbyists are generally governed by a distinct set of laws. See chapter 97, Hawaii Revised Statutes.

Finally, the Department also has concerns that this measure, if placed on the ballot, may confuse the public. If placed on the ballot, this measure may create the impression that it would be legally effective to address and overturn the unpopular *Citizens United* ruling. Because the proposed amendment would not have such a legal effect, this impression would be misleading.

For these reasons, the Department of the Attorney General respectfully requests that the Committee hold this bill.

¹ "Independent" expenditures means when a person or organization spends their own money without coordinating with any candidate for office.

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

"Mr. Speaker, I'm in opposition to this measure. I know that the Judiciary Chair, my good friend, is very passionate about this, and this is a real bug-a-boo for him and he wants to make a statement. I certainly applaud his passion and his desire to do such. But I think what was said earlier about a resolution, I know we sent them, they are, in fact, cheerleading vehicles, if you will. We could do that again, and let them know how we feel year after year.

"I think the Representative from Wahiawa has some good points. Putting a constitutional amendment on the ballot that would have no effect is troubling. Imagine if you would, for a minute, that if we passed out a constitutional amendment that said you couldn't have an abortion in the first trimester. Everyone in this Body would say the Supreme Court already ruled, you can't do that.

"So it's the same, but like Elvis would say, it's the same, 'cept different. I'd also like to echo the comments of my friend from Hawaii Kai, who talks about our credibility being at stake. This is really an exercise in futility, and it is fruitless. I don't know why we would do this. I appreciate the passion and the desire to make a point, but it is an exercise that we will lose more trust from the public. Thank you."

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

"Thanks, in support. I think the idea that somehow that just because it has no immediate legal effect or binding precedent or it doesn't become the law of the land because it's a state constitutional amendment compared to the federal question when it's largely a federal question, doesn't mean it has no effect. The effect it has is that people inside the state and outside the state will realize that we in Hawaii think that the *Citizens United* decision was a terrible one. And it's one that's going to corrupt our political system here in Hawaii by just pouring money into it so that to have any voice in politics, you'll have to have hundreds of thousands of dollars to

spend. That is an effect. It's not strictly a legal one, at least not until litigation has occurred, as the Representative from Makiki has mentioned.

"But to say that is has no effect, not at all. I worked on Capitol Hill for six years. Washington is a city in the world that looks outward almost entirely. They do hear what the states say because it's the United States of America. And when the states start saying, 'Hey, this doesn't make any sense. You can't do this.' Or, 'We want to do things differently.' You bet Washington listens. Wherever you are on the *pakalolo* issue, the fact that Washington and Colorado have said, 'You know what, we're going to do this despite the fact that it's against federal law.' You don't think that changes anything? It sure does. And this effort, yes, there's no guarantee, there's no guarantee of anything in this business. But if we pass this bill, it will send a strong message that we reject Citizens United and that we think that money needs to be regulated in politics. *Mahalo*."

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

"Thank you very much, Mr. Speaker. In opposition. As I stated, I was going to be in opposition when I talked on the floor amendment. When we talk about our constitutional amendment, that's something sacred. That really is. And I don't think we should keep throwing stuff arbitrarily out there. I understand what this is going to say symbolically, but I don't think we should use that mechanism of saying, 'Okay. It's okay, just throw a ConAm out there.' We should think seriously when we put constitutional amendments out there.

"There was a constitutional amendment out there for the definition of marriage, way back when. There's currently going to be a constitutional amendment this coming election period on seeing if you're going to expend dollars for early education. Those are serious issues. I'm not saying this isn't serious, but at this point in time, tell me it's going to be serious. I don't want to say, constituents vote on something that might happen down the road. We can send the message in multiple levels. I don't look at me as an elected official. I don't worry about big dollars rolling into my campaign. I go and walk and talk to people and get to know them personally. And it is what it is. I'm not going to stop that. If I'm good at what I do, I'll be reelected on no money or big money.

"So I don't think we should be putting this before voters. How are they going to be able to understand it? Is somebody going to do a campaign blitz out there in the media to really explain it to them? Or are they just going to say, 'I don't know what it is,' and leave it blank. Really? If we lose at the polls with this, what are we going to look like then, when we have other mechanisms currently? I understand what the 'legal beagles' in here are talking about. I am not a 'legal beagle'. I am somebody that respects that constitution and respects on what the things we put in there, and what we use it for.

"We shouldn't just arbitrarily keep throwing stuff out there. We got enough slaps from saying, 'You guys did something wrong because we didn't understand it.' I don't even know how I'm going to explain this to constituents. I have no clue. I'm probably going to say, 'Well, read what the definition is they put on that ballot for you. I voted no.' And that's what I'll tell them. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. In reservations. Mr. Speaker, this nation has a rich history of money in politics. We have a rich tradition in this country of controlling money in politics. The Tillman Act of 1907 established corporations, you cannot give unlimited money. In 1943, the Supreme Court, the same Citizens Supreme Court said, unions, you can't give unlimited money to money in politics. This heretofore up until the Citizens was very much under control. How much money you can spend, how much money you can collect, and how much you can have limit, like here it's \$2,000 per individual.

"We've always had money in politics as a very serious issue in this Nation. Citizens decision is not an unhinging of who we are as a people. That's my point. Mr. Speaker, the same way that we feel, some of us at

least, that 40 cents on every dollar that we spend is borrowed. Some of us feel that's unacceptable for our country. But for this state to say we have a constitutional amendment for a balanced budget amendment, is going to be useless. Some of us feel very strongly, like the state here that has to have a balanced budget before we can get out of our session, that we should have it at the federal level. But passing it at this level is different than telling them there.

"My point is, those are the big league wars that are going on right now. This is not just unique to Hawaii. This is going on at a national level in all the legal minds that have always been piercing this veil to get more money into politics succeeded, but they're in the process of having other ways of not being able to defend it. I think what we need to do is to be patient to see what's going on at the federal level. And a little burp from Hawaii, which is an inside baseball issue, is not going to make that difference. The point is, not only is it not going to make a difference, but we're going to confuse the people of Hawaii thinking that inside baseball is really their game, and in fact it's our game. So if we want to do this it should be for and among ourselves, and then send it to Washington and not try to bring in the people of Hawaii to do it. Thank you, Mr. Speaker."

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

"In strong support. Mr. Speaker, I agree with a previous speaker that our Constitution of Hawaii is very sacred. What is also very sacred to me is our democracy. Unfortunately, the Citizens United case has threatened the viability of the democracy being for the people. I also agree with the previous speaker that said that there are other methods we could approach this.

"Just like the previous speaker, I'd gladly sign onto a letter to the courts. I'd gladly support a resolution, which I did last year. And I'd gladly support a resolution, which I offered this year to support the Congressional Government by the People Act. But what is a stronger way to send a message than a constitutional amendment, saying that we do not support this ruling. A corporation is not a person, and actually it doesn't really say that. That money is not free speech.

"I want to note that in addition to the examples given, offered by the Judiciary Chair, there are four states with minimum wage laws that are lower than the federal minimum wage. They do this for one reason, that if the federal minimum wage does go lower, that they'll be prepared for that. But also to send a message saying that we do not support this. And I think this bill is along those lines.

"I want to end with that the Citizens United case goes beyond campaign finance. There's a case right now that might be heard, that's expected to be heard this month. Is *Sebelius v. Hobby Lobby*, where Hobby Lobby is a defendant, they're a toy store and they're invoking the Religious Freedom Restoration Act of 2003, stating that the government shall not substantially burden a person's, a person's exercise of religion to build a case that, essentially Obamacare is unconstitutional and the employer mandate should not force them to give coverage, or they shouldn't have to participate in the employer mandate because their employees may use it for contraception, which goes against their religious beliefs. And when I say 'their', I don't know, I mean it seems that when you form a corporation, you forfeit your religious conscience. I can understand, corporations have political rights and I don't agree with it, but that's the basis of Citizens United.

"Now this is a whole few steps up and it's really unraveling everything we worked for. Whether it's equality or fairness or the *aloha* spirit here in Hawaii. And that's one of the things we really need to fight against, and this is why it's very important to take the strongest stance as possible against this ruling, and the constitutional amendment is the best way I can think of to do that. Thank you."

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

"Mr. Speaker, first of all, in opposition. I'd like to have the words of the Representative from Wahiawa adopted as my own. Mr. Speaker, in addition to that, I'd like to make a few comments. What I find most disturbing, Mr. Speaker, is there's been a lot of discussion about

democracy. Okay, democracy in regards to constitutional amendments. When this very Body saw an unprecedented outcry in the history of the State of Hawaii, this Body refused to listen."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. The Representative should discuss the underlying merits of this bill."

The Chair addressed Representative Fale, stating:

"Stay focused on the merits of the bill, please."

At 7:09 o'clock p.m., Representative Fukumoto requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:10 o'clock p.m.

Representative Fale continued, stating:

"Mr. Speaker, I'll continue to talk about the actual merits of the bill and what it actually means. But this is one of the great things, Mr. Speaker. We could send this constitutional amendment out and people vote yes on it and it actually means no. Or they vote no on it and it actually means yes. Or they could vote no or yes and it doesn't matter what they say, we'll decide what the intent was, this Body will.

"So, I like the flexibility that I've seen of what happens with constitutional amendments, Mr. Speaker, from 1998 until now. You never know what those things mean. And I'm severely concerned that we're going to send this measure out and people are going to say, 'Yes, we want to curb the influence of money in politics.' And then when they ask me after they see more money in politics and were like, 'Hey, we voted on this constitutional amendment.' 'Well, you know, it really didn't have any binding impact because the Supreme Court has already decided this issue.' 'Well it was on the ballot.' 'Well, that doesn't really matter, that was a symbolic measure and we just kind of put that out there because we wanted to feel good about it.'

"Mr. Speaker, I think the Representative from Waianae very eloquently addressed that issue, Mr. Speaker, and the sacredness with which we should treat our constitution and the amendments we make to it. It shouldn't be because an individual feels like, 'I want to make a point and I want three to four hundred thousand people in the State of Hawaii to come along with me to make that point.' Mr. Speaker, let's work on issues that we will have a material impact on. Let's not put something out there that we're later going to have to explain when the people voted for or against it, had no real meaning or no real value.

"I think that's something, Mr. Speaker, that, especially given what happened recently, that we need to be very sensitive to and very cognizant of. We're trying to repair, we're trying to do a little repair and maintenance, Mr. Speaker, and this measure doesn't help us do that. For those reasons, Mr. Speaker, I am very much opposed to this measure."

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

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

"Thank you, Mr. Speaker. I strongly support this bill brought forth by our leader of our Judiciary Committee. When we told the King of England that we were a free country, he said, 'That statement has no effect.' But our voices were eventually heard, and loudly, by that king. In this bill, we are standing up to the rich, the new kings of this country, inaugurated by our Supreme Court. And starting perhaps with this bill, our voices will be eventually heard. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I am in support, however I do have some reservations, if you could permit me just a few seconds, I'll be very brief. The reason why I'm going with reservations and not down, as to go down on the bill would be to send a message to the public that somehow I support Citizens United, which I absolutely do not. To give a legal, fictional entity the same rights as a natural born person is so incomprehensible, I still can't even fathom it.

"But what also worries me too, Mr. Speaker, is that if we put this out for a ConAm, the parties that will probably show up to advertise about this will be the very same super packs that have benefitted from Citizens United. And if they show up and advertise, this is terrible. Vote no and it fails, Mr. Speaker. Then the message to the world at large is that the citizens of Hawaii support Citizens United and basically told the Legislature to take a hike.

"As the good Judiciary Chair has said before, 'Washington listens to the states', Mr. Speaker. What would then happen if Hawaii's voice of rejection or support of Citizens United through rejection of this ConAm goes to D.C.? What if this starts in other states, Mr. Speaker? What if, through this very action, we consecrate Citizens United through lack of congressional action because of a perception that the people of Hawaii support it?

"But I can't stand Citizens United, I think it's a travesty of justice, and while symbolic, it is ineffectual. I just worry about the ramifications that could spin back upon us by going through this. And that's why I have reservations, but I do support the measure. Thank you."

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

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

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

"Thank you, Mr. Speaker. In opposition with just brief remarks. As someone who relies actually very heavily on small donations from middle-class working families, I have very serious concerns with the Citizens United decision because it really has wreaked havoc on our elections system. But that said, I also have very, very huge problems with changing the constitution when we're not sure of what we're doing. And I think in this particular case, we would be changing the constitution, which as the Representative from Waianae said is a sacred document that we're supposed to uphold as legislators, and if we have reservations with any changes that we're making, we shouldn't be making them. Thank you."

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

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

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

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

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

"Mr. Speaker, I rise in strong support of this measure. Brief comments to address the point or the contention that this proposal would run afoul of the United States Constitution. I'd like to just note that our constitution already does run afoul of the U.S. Constitution with respect to campaign spending limits and expenditure limits. In 1978, the Constitution Convention of Hawaii adopted two proposals to limit campaign contributions, and to

allow the Legislature to provide limits on campaign expenditures. And that was done in response to the *Buckley v. Valeo* decision that issued in 1976.

"The *Buckley* case ruled that government cannot impose expenditure limits and that government can set contribution limits. The 1978 Constitutional Convention in its legislative history challenged the *Buckley* decision in adopting these two amendments. In effect, the Constitutional Convention set forth two amendments that directly question the reasoning of the U.S. Supreme Court. Those amendments are still contained within our State Constitution. They haven't been challenged yet, but they are inconsistent with the *Buckley* case and with subsequent decisions of the U.S. Supreme Court.

"So in this respect, there is precedent for our State Constitution containing provisions that are inconsistent with federal law. This is not uncommon. Other states have also adopted constitution provisions that conflict with the U.S. Supreme Court's decisions and with the U.S. Constitution. Thank you."

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

"Thank you, Mr. Speaker. In opposition, brief comments. Mr. Speaker, in my humble opinion, the Legislature does have a history of providing misleading and cavalier ConAms. Based on the 1998 ConAm, we thought that the people and the people thought they were educated and we know now they were not."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order."

Representative Ward rose, stating:

"Mr. Speaker, point of personal privilege. This is the marketplace of ideas. If people aren't able to cite something in 1998, this is a dictatorship. This is twice he's interrupted people."

At 7:20 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:24 o'clock p.m.

Representative Har continued, stating:

"Thank you, Mr. Speaker. So, in my humble opinion we do have a history of passing out misleading and cavalier ConAms. And in my opinion, to pass out another one would essentially be a slap in the face of democracy.

"Mr. Speaker, I do want to rebut the points of the Majority Leader. While he says that there is precedent for this, the fact of the matter is this. Even though there's precedent, has it changed the results in the *Buckley* versus *Valeo* case. I would submit it has not.

"In addition, Mr. Speaker, again, we all understand, I appreciate the words of the introducer of this measure regarding the symbolism that this bill would, in effect, effectuate. However, again, why do we do constitutional amendments? We pass out constitutional amendments because we want the voters to amend the constitution to have a legal effect and not a symbolic effect.

"So for those reasons, Mr. Speaker, I cannot, as an officer of the court, as an attorney, I cannot in good faith support a measure that will confuse the voters, who, which has been stated before, who don't have a lot of faith in the Legislature right now. So for those reasons, Mr. Speaker, I respectfully stand in opposition. Thank you."

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

"Thank you, Mr. Speaker. In support. I'll be very brief. *Citizens United* in that decision was not only undemocratic, it was in my opinion un-American. And this is something that clearly must be corrected. While it is

out of our power directly to influence it, this is one step toward taking action.

"One of the previous speakers had asked, well what if this effort fails at the ballot box? What if we make a statement that is unsuccessful? What effect will that have? And I pose the question instead, what if we are successful? What if Hawaii leads the charge across the nation, and state after state start adopting similar provisions that in the end gets the federal government to listen and capitulate and restore democracy to Americans? What if? We will never be successful without trying. That is what we do here. We pass laws, not knowing that they're going to be 100 percent effective, 100 percent successful. But we go with our best intention and hope for the best result.

"I've been consistent in supporting constitutional amendments that expand basic rights to all Americans and not take them away. And *Citizens United* took away the right of an equal vote, an equal political influence, to Americans across this country. That is something that needs to be restored, and that is why it's important that we take this step forward, educate our public, allow this debate to move forward, and hopefully at the end of the day, correct the great injustice that has been done toward Americans in our political process by overturning *Citizens United*. Thank you very much, Mr. Speaker."

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise with serious reservations on HB 1499, HD 1. This measure proposes a constitutional amendment be put onto the ballot this November to provide that freedom of speech does not include the expenditure of money to influence elections. I understand the intent of this measure is to make a symbolic statement that Hawaii does not support the U.S. Supreme Court's ruling in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) and I personally do not support the *Citizens United* decision or that corporations should be considered as 'natural persons' for the purpose of free speech rights. At the same time, to put this kind of amendment on the ballot, for consideration by the voters of the State of Hawaii, is improper for several reasons.

"First, it is absolutely clear that this amendment will have no legal effect on the *Citizens United* decision. The Supreme Court based its holding on federal Constitutional law. Under the U.S. Constitution, Article VI, the U.S. Constitution is the 'supreme law of the land.' Article VI, in relevant part, reads as follows:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, *shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.*

"Mr. Speaker, this amendment will have no legal significance, which the Judiciary Chair has recognized in the Judiciary's Committee Report, HSCR 245-14.

"Second, this proposed amendment will confuse the voting public. I draw the Members' attention to the testimony submitted in support of this bill to the Judiciary Committee. The League of Women Voters testified that this bill would 'remove expenditures intended to influence elections or promote lobbying, from the Constitution's protection of freedom of speech.' The authors of this testimony did not understand that this amendment, if passed, would have no such effect. Only federal action can overrule the *Citizens United* decision.

"Finally, I understand that in 1978 Hawaii made 'symbolic' amendments to the State Constitution regarding campaign and election laws. I note that we have chosen not to do so since. Our State Constitution is the supreme law in Hawaii and we should not use it as a tool to make political symbolic

gestures. Again, I fundamentally disagree with the outcome in *Citizens United*, however, Mr. Speaker, as the old adage goes, 'two wrongs don't make a right.' Thank you."

Representative Oshiro rose to respond, stating:

"Mr. Speaker, just to rebut some of the assertions of the Majority Leader. I have before me the Journal comments of the 1978 Constitutional Convention delegates. In particular, a delegate Weatherwax. And it's relevant and germane to this argument. What they are trying to do, Mr. Speaker, because *Buckley v. Valeo* came out several years before that. In the Constitutional Convention, what they were trying to do was to reconcile state law with the *Buckley* decision.

"So I'll read. 'Presently under *Buckley v. Valeo*, spending limitations are permitted when in fact voluntary financing is undertaken.' Let me read it again. 'Presently under *Buckley v. Valeo*, spending limitations are permitted when in fact voluntary financing is undertaken.' That's what they're trying to do here. They were well aware of what they could do. They were well aware of that. Let's set that straight.

"Another point, my good friend from Lahaina made a very important point. What would happen if the constitutional amendment failed? Would that mean that for all of us will follow the will of the voters who did not ratify a constitutional amendment condemning the *Citizens United* case? We'll all have a change of heart? Will we all endorse the principles and policies of the *Citizens United*? Keep in mind, Mr. Speaker, it is easy to defeat a constitutional amendment. It is difficult to get one approved.

"If people don't understand and they don't vote, that's not a positive vote, it's a no vote. And so the concern that was raised by our friend from Lahaina is a very relevant one. To my colleague from Waimanalo, I agree. *Citizens United* was a terrible decision. It set us back as a democracy, it's anti-democratic, it's anti-empowerment. I believe we should hope for the best, prepare for the worst.

"Maybe the Supreme Court currently looking at that case, alluded to by the Representative from Makiki, I think it's an Arizona case, *McCulloch* case. Maybe they'll pull back and amend and go back as far as *Valeo*, beyond *Citizens United*, and correct what they did. But if they don't, if they don't, and this ConAm goes out and by happenstance, it fails to get ratified by the voters, what do you do? I don't want to risk that, that's too dangerous. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, I'll be brief. First of all, could I have permission to insert additional written comments, in support. I did want to address the issue of what happens if we fail. It's pretty common that ConAms do fail, I'm just looking at the 2012 list of ConAms that were proposed and a couple of them failed. I don't think that it reflects badly on this Body that we put a ConAm regulating to dams and reservoirs on there that people rejected, or that they rejected the retirement age of judges as well, which was another ConAm that we put on in 2012.

"We teed up the question for the citizenry and they chose not to accept it. If they did that on this proposed amendment, if it gets that far, we're no worse off than we are right now. So, I don't see what the political danger is of going forward with something like this. We make the statement that this is what we believe the way things should be, and I think there's pretty much universal acceptance that *Citizens United* was wrongly decided and pretty much a disaster for democracy. But if it fails, we're no worse off than we are right now. So thanks again for the time."

Representative Rhoads's written remarks are as follows:

"The purpose of this bill is to symbolically nullify the *Citizens United v. Federal Election Commission* decision, by ensuring that the definition of speech in our state's Constitution does not include expenditures of money to influence elections.

"Modern campaign finance law is rooted in the 1976 U.S. Supreme Court case *Buckley v. Valeo*. *Buckley* stands for the proposition that

limitations on expenditures by *candidates and independent groups* violate the First Amendment's protection of free speech. Essentially, spending money to influence the outcome of elections is constitutionally-protected free speech: money equals speech.

"The *Citizens United* decision took this concept a step further in 2010 by striking down long-standing precedent limiting independent expenditures by *corporations* to influence federal elections. As part of its holding, the Court declared for the first time that the First Amendment not only protects a person's right to speak but the act of speech itself, and thus protects the speech of corporations whether or not we consider a corporation to be a person. Combined with *Buckley*, this means that any limits on corporate money for election purposes are unlawful bans on free speech.

"Since 2010, we have been living with the excessive unlimited independent expenditures that *Citizens United* endorsed. The manipulation of the political process by special interests hiding behind the cloak of the First Amendment was well-evident in the 2012 elections and is already kicking-up for the next election. Unlimited amounts of money are right now being dumped into the political process to assail and influence voters with biased information and to drown out opposing viewpoints. Yet, as long as these expenditures are not openly coordinated with political candidates, the U.S. Supreme Court has said this is acceptable.

"This bill seeks to restore the principle that the First Amendment protects individual speech, not speech by corporate entities. Spending money is not a form of speech and should not be entitled to First Amendment protections.

"As powerfully stated in Justice Stevens' dissent in *Citizens United*:

The conceit that corporations must be treated identically to natural persons in the political sphere is not only inaccurate but also inadequate to justify the Court's disposition of this case.

In the context of election to public office, the distinction between corporate and human speakers is significant. Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for office. Because they may be managed and controlled by nonresidents, their interests may conflict in fundamental respects with the interests of eligible voters. The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races.
558 U.S. 310, 394 (2010)

At bottom, the Court's opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.

Id. At 479 (emphasis added)

"As citizens of this great state, we have the right to say, this practice is detrimental and needs to stop. We do not need to welcome into our democratic process well-financed corporations and individuals who are attempting to control public policy in their own interests. We have a duty to rescue our elections from being tainted by invisible actors who can influence and maneuver without financial restraint. Let us restore and strengthen democracy at home by taking action against a decision that was wrongly decided. We know that *Citizens United* was wrongly decided and this bill will provide our constituents the opportunity to oppose it.

"Obviously, until *Citizens United* is overturned there will be no legal effect of the amendment. What the bill will do, however, is send a

powerful message to the Supreme Court that protecting unlimited expenditures of money is detrimental to the political process and such expenditures are not a form of constitutionally-protected speech.

"As the bill progresses, I believe that an explanatory statement could be added to the ballot question so that voters understand that it will not have a practical effect without action by Congress or the Supreme Court. Since this measure would be placed on the ballot which needs to be printed for other votes, its inclusion will not be an additional cost."

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in opposition. Mr. Speaker, as stated by many of my constituents who testified in opposition, 'The legislature no longer has the public trust to issue new constitutional amendments. . . . this amendment is meaningless and confusing. . . . posting a meaningless and confusing constitutional amendment is a waste of taxpayer dollars and hearing a constitutional amendment that has little or no support is an exercise in tyranny.' As a side note, the vast majority of testimonies came in opposition. The Attorney General's Office also testified in opposition and asked that the bill be held. For these reasons, I rise in opposition."

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

Representative Say rose in opposition to the measure and asked that the remarks of Representative Oshiro be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Fale rose, stating:

"Mr. Speaker, it's been a very curious debate and I'll actually change my position from opposition to very strong reservations with this measure. But I find it, it's curious. Very interesting discussion, and maybe I would like to see this on the ballot. But I think there's still some pretty serious concerns. I would like to have the words of the Representative from Wahiawa adopted. But I find also very curious that the same words of undemocratic, un-American and the equal right to vote were all mentioned in the same sentence, Mr. Speaker."

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

"Mr. Speaker, first of all I want to speak strongly in favor and I wish to have the remarks from the Representative from Kona as my own. Thank you for your strong remarks. I just want to give a little basic history lesson. Our forefathers came out with this strong statement years ago. Let not the federal government infringe on the states' rights. And many of you who wished you were called Jeffersonians are familiar with that. They also gave the congress only and the federal government one right and that was to wage war. That's all they had.

"In the meantime, of course, they have made many amendments, and come into this amendment, which is a horrible amendment. It takes away the individual right of those candidates with limited revenue. Only the rich and the powerful can control. This is Tammany Hall all over again, but unfortunately, done by the government.

"I believe, if we can pass this measure, the public will applaud us for at least taking a stand against a horrible bill. And as the Representative from Kona said, let this message then go forward. Thank you very much."

Representative Ward rose to respond, stating:

"Mr. Speaker, second time with reservations. I happen to have a bust of Thomas Jefferson in my office. In fact the first thing you see when you come into my office is Thomas Jefferson, because he believed in the common sense of the common people for the common good, and states' rights were part of that.

"But Mr. Speaker, what's missing in that argument is when we passed our budget a few weeks ago here, did you know that almost 40 percent of our budget is federal money? And with that, our mandates that we do in effect, Mr. Speaker, we've sold out to the feds as states. The states are beholden to the federal trough. So to say that we are going to rise up and tell the federal government what to do, we have been so wimpy because all we want is their money. We say, yes, we'll have helmets on this if we can get those federal monies for this transportation *et cetera, et cetera*.

"So I think sending a statement to the federal government is best through our delegation, is best through those people who represent that level, and as I said earlier, there are many, many forces in the process of overturning this decision. We come from a country with a great limit on campaign spending, on contributions, we lead the world in transparency.

"Mr. Speaker, I worked for the office of democracy and government at USAID. I have authored a book on money and politics, the value of disclosure, because there are many countries that never even call upon their politicians to show where they got their money. And when they learn that the drug lords had actually put a person in office, they threw them out.

"So we are at the higher level where speech obviously is a mockery of what money is, the way that this has been put forth. But freedom of speech shall not include the expenditure of money. I'm not sure even people, if it gets on the ballot, are going to understand what that means, the way that this thing is going to be worded. So, Mr. Speaker, we've not only sold out to the feds, this may even risk being jeopardized in their eyes even further. For those reasons, Mr. Speaker, I continue with reservations."

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

Representative Awana rose in opposition to the measure and asked that the remarks of Representatives Har, Jordan and Oshiro be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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 opposition to HB 1499, HD1.

"The ability to propose an amendment to the state constitution is one of the most important authorities that have been assigned to the Legislature. Like the ability to appropriate taxpayer dollars, this is not an authority that the Legislature should take lightly. While the appropriate way to respond to the Supreme Court of the United States (SCOTUS) regarding the unfortunate Citizens United decision requires the precision of a scalpel, the proposal before us prescribes a sledgehammer. As the comedian Gallagher has demonstrated, the indiscriminate application of force due to poor choice is liable to leave everyone covered with watermelon. Except this is not funny.

"This Body has demonstrated a pattern of misrepresentation and arguably a blatant disregard toward voter intent on constitutional amendments. Within the last year, both the Governor as well as this Body disregarded the 1998 constitutional amendment regarding same-sex marriage. Mr. Speaker, please understand that previous actions by this Body as well as other entities of this government are in fact germane to this measure because they are necessary to demonstrate a pattern of behavior. I would appreciate your indulgence while I establish this pattern of behavior in order to address the measure before us, and how this measure is part and parcel of this pattern of behavior.

"While authority is granted to us *vis a vis* the State Constitution, our authority is much more organic as it is granted by the consent of the governed. This comes in the form of 'trust', and it is poor form and an erosion of this same public trust when government comes back and says, 'Yeah...that last vote didn't count.'

"This Body has historically done just that. I would like to address the Members' attention to the November 14th, 2013 decision of Judge Karl K. Sakamoto. On page 33 of the court's transcript, Judge Sakamoto opined on the constitutional ramifications of the 1998 amendment by stating:

Accordingly the court concludes that the plain and unambiguous language of Article 1, Section 23 is construed to empower the legislature to reserve marriage to opposite sex couples. It does not give the legislature the power to constitutionally recognize marriage to same sex couples under Article 1, Section 23. The people of Hawaii did not ratify the constitutional amendment of Article 1, Section 23 to allow for the expansion of the legislature's constitutional power there to include same sex marriage.

"The intent of the constitutional amendment and the constitutional ramifications were clear on its face. However, the Attorney General argued that this Body could disregard public intent using other authority granted to it by the constitution. In essence, the 1998 constitutional amendment was clearly misleading.

"Circling back, this constitutional amendment is also clearly misleading. Based on testimony by the very same Attorney General who argued *McDermott v. Abercrombie*, the measure before us misleads the public to believe that their vote on this measure would ameliorate the sinister impacts of SCOTUS' Citizens United decision on democracy. The previous floor amendment attempted to stamp this measure with what I like to call an 'Attorney General's warning'. Similar to the warning we stamp on a pack of cigarettes or a container of alcohol, our democracy is wholly reliant on having an informed electorate. This 'Attorney General's warning', like a Surgeon General's warning clearly stated:

...the proposed constitutional amendment, if ratified, cannot have any practical effect. The State of Hawaii remains subject to the Citizens United ruling construing the federal Constitution, regardless of any amendment made to the Hawaii State Constitution. Consequently, the legislature declares that House Bill No. 1499, and its subsequent version, House Draft 1, cannot effectuate its intended purpose.

"As this floor amendment was rejected, I have no reasonable basis to approve the bald-faced deception contained in this measure. This amendment is misleading and cavalier. If placed on the ballot, this measure can facilitate the impression to the people that it is authoritative and indissoluble.

"While comedic in his intent, the lesson from Gallagher is regarding the misapplication of tools. With reference to tools, there is an adage amongst carpenters and other builders to 'measure twice and cut once'. Based on testimony submitted before the Judiciary and Finance Committees as well as the debate on this Floor, it is clear that we have cut without even measuring. Like my colleagues in this Body, I find the Citizens United unfortunate even under the best of circumstances. But I cannot in good faith support any measure that will (a) be part and parcel of this Body's pattern of deception, (b) erode the public trust in the authority of this Body, and (c) have no meaningful or practical effect.

"If this Body were truly concerned with symbolic gestures and the sinister impacts of the Citizens United decision, it would instead prod our legislative delegation toward meaningful action on the federal level. Congress is the only entity with the authority to counter the SCOTUS and its Citizens United decision. I would eagerly be the first to sign or adopt any such measure. The Legislature has done so in the past via HCR 282 (2010), and the lack of any action by our Congressional delegation leaves my constituents to believe that they are indifferent to this cause.

"For these reasons, Mr. Speaker, I stand in opposition to HB 1499."

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise in opposition of HB 1499, HD1. This bill proposes a state constitutional amendment decrying the *Citizens United* ruling regarding campaign spending. Mr. Speaker, as an individual who receives most campaign donations from small, individual donors, I find the *Citizens United* decision problematic. However, the proposal outlined in HB 1499, HD1 would neither amend the *Citizens United* ruling nor change the ruling's outcome, as *Citizens United* is a federal ruling. Federal law will take precedence over state law. Because of this fact, it would be very misleading to voters to have them vote on something that cannot be changed legally despite the outcome of the votes. Thank you, Mr. Speaker."

Representative Fale 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. 1499, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION REGARDING THE FREEDOM OF SPEECH," passed Third Reading by a vote of 35 ayes to 15 noes, with Representatives Awana, Carroll, Choy, Fale, Fukumoto, Hanohano, Har, Hashem, Ito, Jordan, Kawakami, McDermott, Oshiro, Say and Tsuji voting no, and with Representative Tokioka being excused.

At 7:39 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1499, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 904-14) recommending that H.B. No. 2529, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 2529, HD 3 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 2529, HD 3, a measure that relates to the Hawaii Health Connector website; creates the Connector legislative oversight committee to review the financial and operational plans of the Connector and establishes a sustainability fee.

"Mr. Speaker, this measure has some serious problems. In December of 2013, National Review Online reported that Hawaii was 'the worst state-based exchange in the nation' with participation of only '257 Hawaiians . . . all of them individuals who earn enough to be disqualified from subsidies.'

"Clearly the roll-out of the Hawaii Health Connector has been a disaster for our state. Now, after a flawed and reckless spending of a \$200 million federal grant to establish the Hawaii Health Connector, we are now asking the people of Hawaii to take over the administration of Hawaii Health Connector and to pay for this poorly managed federal program.

"Mr. Speaker, the Hawaii Health Connector was supposed to save the people of Hawaii money. Why is it costing us money? It seems that this is becoming a fiscal black hole. None of the promises were delivered regarding the lowering of health care costs for the people of Hawaii.

"For these reasons, Mr. Speaker, I rise in opposition to HB 2529, HD 3."

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

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

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

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

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

"Mr. Speaker, in opposition. This is a bill that would make the connector the official, as it is the Obamacare and the Obamacare policies. I want to commend Mr. Matsuda who's the connector director, for his assessment that he gave in the Finance Committee. He basically and frankly said that, even though they have \$205 million and they've got a website, they have \$48 million that they have created a website that unfortunately is not working very well. But they have also given, I think a sustainability factor of \$5 million per year that they're going to need to use this, to keep it sustainable. Mr. Speaker, he basically has said that it's not sustainable. There's not going to be the funds.

"So I don't see how we can throw good money after bad, and as the saying goes, 'if it looks like a duck, walks like a duck, it probably is'. It's a losing proposition, Mr. Speaker. I know it's mandated at the federal level, to have a connector. There's supposedly 100,000 people who don't have health insurance provided for them. However, 50,000 are in Medicaid, another 50,000 are somewhere out there and they have for the last few months tried to round them up. Guess how many they've rounded up? 4,000 something, maybe less than 5,000. Mr. Speaker, there was going to be an assessment by which they could be assessed a fee. Unfortunately, it's not going to happen.

"The problem is, Mr. Speaker, it's not viable and why should we throw good money after bad? You know the old saying, 'You got to know when to hold 'em, when to fold 'em.' This is one of the things we should fold up, and I would cite the Star Advertiser that said, be careful Legislature, don't get sucked in to making this part of the government. Don't get sucked in and saying that it doesn't work as a non-profit. Which supposedly it is, but it isn't, it's one of those ambiguous in-between, being private and being public. But it's where, if we get caught up into it and make it part of government, that is a big mistake. For those reasons, Mr. Speaker, I'm against this bill."

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

"Thank you, Mr. Speaker. In support. First of all, hopefully we'd be working off the same House Draft 3 and not House Draft 1, which is the one that tried to move the connector into state government. The connector did receive it's 501(c)3. Mr. Speaker, this is not a verdict or an endorsement of the connector. What this is an attempt, and I use the word 'attempt', to do, is to answer the concerns and outcry of many in the community who have seen this federally mandated apparatus not roll out the way it was intended, Mr. Speaker.

"Mr. Speaker, this is not about throwing money after something. What it's trying to do is put up a very strict system of total disclosure, so that we know where every penny requested is supposed to go, and that we basically know whatever revenue scenarios are there may work. But here's the thing, Mr. Speaker, we sunset pretty much everything in 2017. And why is that, Mr. Speaker? Because the Innovation Waiver Task Force,

which passed earlier unanimously, as well as a coming resolution all bring us to the close of the connector in Hawaii.

"What this is trying to do is put the responsibility and accountability on the connector for the monies the taxpayers have already spent, Mr. Speaker. And to ensure that blank checks don't continue to go out, with price tags that go all over the place, Mr. Speaker.

"The reality, Mr. Speaker, is that yes, I agree with many of the things that have been said. We could've probably done this with Medicaid expansion and just having issuers handle the shop and individual medical plans for people with pre-existing conditions and probably closed our uninsured gap quickly.

"Prepaid health, Mr. Speaker, is what brought us to near universal coverage. It's ironic that prepaid health was the model for ACA, but yet ACA coming to Hawaii could undermine prepaid health. And that goes to the question, well why don't we just give up, chuck it, let the feds come in and run the whole thing like they're planning in other states? It's because we will lose prepaid health, Mr. Speaker. That's why.

"So the question is, what do we do with something that's been foisted upon us from the federal government, including a mandated fee. We tried to make it as responsible as possible and tie in other legislation to wind this down through the innovation waiver process so that we can come up with something that'll allow us to close this *manini* gap with not driving up healthcare costs, or worse, creating inefficiencies so people with healthcare won't have the right information.

"Mr. Speaker, this brings brokers into the picture to answer questions about not being able to get insurance options given to people. This puts very strong control insofar as trying to make a federally mandated fee discretionary, insofar that we're forcing the connector to use every penny and every revenue idea possible before a sustainability fee would even be considered.

"So we've done everything we can to make responsible and try to reign in something which the citizens are very concerned about. But this is not an endorsement of the connector. What this is, is trying to get a handle on what has already been spent and make sure that it just doesn't continue. And again I do echo the speaker of Hawaii Kai for Director Matsuda, who is doing a great job in trying to reign this all in and drive down costs. But he supports this measure, Mr. Speaker, as does the AARP, by the way, because it brings transparency and accountability to something that hasn't quite frankly existed.

"So I appreciate the reservations, I hope the reservations on the Floor will come with specific concerns and questions. But please, this is not an endorsement of Obamacare, ACA or anything else, what it's trying to do is to put controls and oversights and transparency that the community has wanted on something that the federal government has had us roll out.

"I believe state innovation waiver is our end game. I believe that hopefully we can get a suspension of certain parts of the ACA immediately, because we are doing the job with prepaid health and Medicaid expansion. But until the meantime, I feel that to not move anything, Mr. Speaker, is to say, 'You know what, it's great the way it is, it's perfect. The money that was spent was awesome. Beautiful. Nothing's wrong, everything's perfect.'

"I'm not going to do that, Mr. Speaker. I'm not going to go out to my community, who's up in arms, and say we did nothing. We turned our back and said all good, we just complain about how bad ACA was. What we're trying to do is put responsible controls. I find it very ironic that the minority would be so up in arms with reservations when zero-based budgeting is an ALEC Republican position, which we borrow from Colorado, Mr. Speaker, to bring accountability and transparency to the connector to make sure that whatever monies, whatever monies, hopefully not much is allocated through a sustainability fee, is done with rigorous controls and oversights.

"So again, Members, I'll use this statement one more time, I'll use this analogy I guess that I've used before. When my good friend from Manoa

brought this to my attention in August, because this was not on the CPC hit parade. He said, 'Boss, boss, there's two things you can do here. You can be like the Matrix, you have the blue pill and the red pill. You can take the blue pill, which means everything's great, hunky dory, it'll fix itself, people just don't get it, and it'll all go away.'

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

Representative McKelvey continued, stating:

"Or, you can take the red pill, Mr. Speaker, and open your eyes to what is going on. Open your eyes to the concerns of the community, AARP, of citizens, everything else, and try to fix this and make it responsible while we have it, Mr. Speaker.

"So that's in an essence, sometimes I joke with him, I say, 'I should've taken the blue pill.' But, you know what? To not open your eyes, to not say anything, to not try to fix it, would be a dereliction of duty to our constituents. I know it's not perfect, and it's not an endorsement. For God's sake though, join me in coming up with fixes. If the concerns are not addressed in the bill, then let me know what they are. But I'm doing this for your constituents who are upset and want some of this accountability, transparency, and other things to make sure that what money has been spent, doesn't just simply go away, thrown to the street. And that's my point, Mr. Speaker.

"But again, I respect the decisions of everyone, I just hope that people will articulate their concerns and reservations so we can try to make this something that at the end of the day will allow us to justify the dollars that were put in and try to bring value back to the people and not just simply trying to endorse something that isn't working and people are upset about. Thank you very much."

Representative Fale rose to respond, stating:

"Mr. Speaker, still in opposition. I'm a little concerned about the pills they're taking over in that section over there, Mr. Speaker. Still in opposition. I'm just a little bit concerned that after \$200 million has kind of disappeared into a vacuum, suddenly we're going to put in rigorous controls and monitor everything. Mr. Speaker, I'm just very concerned. We launch into investigations over \$250,000 that disappeared, but when it comes to like \$200 million and who knows how many other millions of dollars that have just been absolutely squandered, Mr. Speaker, I'm very concerned. As the Representative from Hawaii Kai mentioned, do we want to engage in further effort in something that may not be in the best interest of the people in the State of Hawaii.

"So those are just very real concerns, Mr. Speaker, and it would be good to see the rigorous controls in everything in place prior to hundreds of millions of dollars disappearing, Mr. Speaker. But for those reasons, I'm still opposed."

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

"Thank you, Mr. Speaker. In support. I'd like to take the purple pill, but I'd like to adopt the words of the Chair of CPC as if they were my very own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In strong support. I too am glad that the Chair of the CPC Committee took the red pill. I also want to commend all the members of the Health and CPC Committees that have sat through numerous briefings on this issue.

"I wanted to just clarify a couple of things. First of all, there is about \$90 million still unencumbered and unobligated with the health connector. So these measures to bring more transparency and accountability are much needed and can help the health connector as it moves forward.

"I'd also like to add that the fee that we've imposed in this is time-limited in response to many of the concerns that were raised through the legislative hearing process.

"Finally, Mr. Speaker, I wanted to point out the addition of the agents and brokers as a way to help bring up enrollment in the shop side. One of the things that, as we're learning about the ACA, as we're moving forward with the state innovation task force, one of the things that we're learning is that the monies for the innovation that states are going to be engaged upon, the federal monies that will be due to the states, are tied towards those tax credits that are being drawn down now by individuals and employees of small businesses.

"So it's incumbent upon us, between now and the time that we are able to qualify for a state innovation waiver, to make sure that the health connector can run and function as best as it possibly can and enroll those folks, both on the Medicaid side, the individual side, as well as shop employees, because that will give us a better picture and a better outcome as we move forward with innovation. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support and I just wanted to show my appreciation to both the CPC Chair and the Health Chair for their hard work. There's a lot of misinformation about the health connector. One piece of misinformation is that it has \$200 million. It does not. It had authority to draw down \$200 million, but it only drew down about \$110 million, and that's what the Chair of the Health Committee was alluding to, but we have no idea what they spent the \$110 million on. And it was only through the efforts of the two chairs that we're finally getting the answers we need.

"Just because it's federal money doesn't mean we shouldn't do our due diligence on how these monies are spent. These monies are here to assist the citizens of Hawaii to get health coverage. And if it's not doing the thing that it should be doing, then it is incumbent on the State Legislature to look and demand accountability, and it wasn't until these people got involved and for them to continue these discussions, I think it's going to be a long way before we get to some type of response or some type of true result on what we want to do with the connector. But if we don't do anything, then we would really have failed. Thank you."

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

"Thank you, Mr. Speaker. Just very briefly, in support with reservations. Mr. Speaker, I want to admit that I actually did submit a green slip, and it was really only based on the fact that I had looked at the testimony of Mr. Tom Matsuda, the interim Executive Director of the Hawaii Health Connector. Based on his comments submitted to the Finance Committee, for those reasons I had submitted a green slip.

"But based on the very passionate speech and all the hard work done by both the Health Chair as well as the CPC Chair, respectfully, I will be voting with reservations. I do recognize the continued promise, but I do have great respect for both chairs and the work they provided. So for those reasons, I understand this is a work in progress, and for those reasons I will be voting with reservations. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. Can I ask that the words of the Representative from Kapolei be inserted as if they were my own, except for the part, I didn't turn in a green slip. Thank you," and the Chair "so ordered." (By reference only.)

Representative Oshiro rose to respond, stating:

"Thank you, Mr. Speaker. I'm going to be voting with reservations. First of all, let me shout out and give some kudos to the Chairs of the Health Committee and Consumer Protection & Commerce. I think they've been

doing a terrific job. I think they have been kind of shy in really explaining to us how critical the next several weeks will be.

"We're already in the month of March, and according to testimony given by Tom Matsuda from the Health Connector, they were supposed to present to the committee members and the chairs a business plan, setting forth for several different models of how this connector going forward in 2015 will have a sustainable revenue source to operate its system and program. They haven't spent all the federal monies, about \$110 or \$105 million, and they're hoping to get an extension from the federal agency to allow further expenditure beyond 2015.

"But what we learned in the hearing is quite remarkable. We all talk about a March 31st or end of March deadline. The truth is, Mr. Speaker, that deadline is in about two weeks. Two weeks. That means if those we are targeting right now, about 100,000, let's say 50,000, do not sign up by March 15th, get enrolled, the next open day I think is back in November.

"So there's really a crisis at hand and I really admire the work of the chairs and what they are doing with it, and the assurances from the CPC Chair, that this will not become part of the government apparatus. So I appreciate that.

"But I encourage all the Members to support them and provide any good ideas on how to work this thing out. This is uncharted waters, Mr. Speaker. No state has gotten it right, there's no best practices. So I really support them. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2529, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 42 ayes to 7 noes, with Representatives Fale, Fukumoto, Ito, Johanson, Matsumoto, McDermott and Thielen voting no, and with Representatives Ward and Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 905-14) recommending that H.B. No. 1866, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1866, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Before I begin, may I request a ruling on a potential conflict? I am a litigator and I specialize in land use litigation," and the Chair ruled, "no conflict."

Representative Har continued to speak in opposition to the measure, stating:

"Thank you very much. Based on that, Mr. Speaker, I do have many concerns about this bill. First and foremost, the amount of litigation and I could potentially be going into court and making lots of money off of this bill. And for those reasons I am in opposition. But I have other concerns.

"First and foremost, Mr. Speaker, I have concerns about the composition of this board. I think it's important for people to understand that back in 2012, less than two years ago, the entire make-up of the Board of the HCDA, community development boards, was in fact changed. And the reason being, in 2012, what we did in the Legislature was we had then at that time created the Heeia Community Development District. At the request of many of the members of the Heeia Association, they had worked very hard on this community development district. And with the help of HCDA, they had now requested that a formal community development district be now promulgated. And that in fact was something

we thought was worth merit, given the fact that they had done so much rehabilitation work in the area of Heeia.

"In addition, the Heeia Community Development members asked us to please create a separate authority for Heeia. Specifically because of the issues that fell within the purview of Heeia, and Heeia only. They felt that the members of the Kakaako Board would not understand the intricacies and what they had done to in fact create this development district and the anomalous issues pertaining only to Heeia. So for those reasons we then decided to create this separate Heeia Community Development District along with its board.

"At that same time, and at that time I was the Representative of Kalaeloa. Kalaeloa was a community development district, it remains a community development district. And at that time, the board members of Kalaeloa were also upset because they felt, with all of the issues we have in Kalaeloa, and first and foremost, Mr. Speaker, we do have a plethora of issues in Kalaeloa. There are a multitude of land owners. As we know, Kalaeloa was formally known as Barbers Point and in 2006 after Congress had, after we went through BRAC reorganization, what had happened was, we had a multitude of land owners in Kalaeloa, and as such we have a multitude of issues.

"So the Kalaeloa members felt that they didn't want people from Kakaako who didn't understand all of the issues, and particularly those people who had actually worked on the Kalaeloa plan, they wanted some control over Kalaeloa because they are the constituents and residents who live and work in that district. They understand all of the problems, they were part of the Kalaeloa development plan. And so they requested too, to have the same parity as the Heeia development district. And for those reasons, that's when we created these three separate boards.

"In addition, we were asked to add on a cultural specialist from the Department of Hawaiian Home Lands to the Kalaeloa development district, because of the fact that the Department of Hawaiian Home Lands owns so much land in Kalaeloa.

"So now all of a sudden, less than two years later we're going back to one central board, and we are going to say that this central board will understand all of the issues in the Heeia and Kalaeloa development districts, without living there, without knowing the specific issues that exist and basically saying that the Kakaako members will know better than those residents who live there?

"Mr. Speaker, I have so many concerns about this bill. Secondly, I think one of the concerns I have too is the additional oversight of the authority through prohibiting the authority from delegating its powers to approve variances, exemptions or modifications of community development plans. I mean, I understand the concerns and I do understand the reason for the introduction of this bill. But if we're going to go in this direction, why are we limiting the authorities' hands?

"The fact is, is that Kakaako is in the urban core. You are supposed to be building up in the urban core. Had we been building up in the urban core, the way we were supposed to under our basic urban planning principles, we wouldn't have the urban sprawl today. For God's sake, Kapolei may not even have been built, all of the houses on the West side and all of the urban sprawl that we have today, had we been building on and developing under basic urban planning principles. And now all of a sudden we're saying, 'Nope, you can no longer build in Kakaako. You're going to have all these restrictions.'

"We are only going to further exacerbate the problems of urban sprawl. We must really take a holistic approach and look at what we're doing with Kakaako. Kakaako is in the urban core, we have failed. HCDA has failed with respect to workforce housing and affordable housing. And there are certain parts of this measure that at least address that. But at the end of the day, Mr. Speaker, we continue to have so many problems with this particular measure. And this is not the way in order to get the affordable units that we need in Kakaako. For these reasons Mr. Speaker, I respectfully stand in opposition. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. I'd like to ask that the words of the Representative from Kapolei be entered into the Journal as if they were my own. I'd also like to include in my comments the testimony that came through Kamehameha schools. I'm not too sure if this is a possible conflict of interest, but I had worked in their land management division at the schools around this time when they were also working in the Kakaako area," and the Chair ruled, "no conflict."

Representative Awana continued, stating:

"Thank you, Mr. Speaker. With that said, I think something that speaks volumes is that the State Legislature back in 1976 supported this effort in Kakaako and HCDA. And Kamehameha Schools, among many other land developers, state and city, has been working diligently at making sure that the master planning that has been going on for decades now comes to fruition. I'd hate to see that all of the efforts of decades and decades of hard work and effort would simply go to the wayside with the passage of this measure.

"My other concern, Mr. Speaker, as the good Representative from Kapolei had made mention, is the exclusion in the bill for representation from Heeia, as well as Kalaeloa in a sense that it doesn't necessarily name individuals to represent on the board here.

"In conclusion, it is also my thought that it may not be in the best interest of those additional areas if they don't have representation, and decisions may be made without their best interest. Thank you, Mr. Speaker."

Representative Awana submitted the following:



KAMEHAMEHA SCHOOLS

February 25, 2014

WRITTEN TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE

By
Walter F. Thoommes III, Chief of Staff
Kamehameha Schools

Hearing Date: February 26, 2014
2:00 p.m. Conference Room 308

To: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair
Members of the House Committee on Finance

RE: **Comments and Requested Amendment for House Bill No. 1866 Relating to the Hawaii Community Development Authority and House Bill No. 1867 Relating to the Kaka'ako Community Development District (collectively, the "Bills")**

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and members of the House Committee,

As an organization dedicated to the education of Native Hawaiians, and longtime steward of legacy lands to perpetuate that mission, Kamehameha Schools (KS) provides the following comments to the Bills.

KS has spent years and valuable resources developing the Kaiāulu 'O Kaka'ako Master Plan (the "Master Plan") for its legacy lands. The Master Plan is more than a set of zoning rules. Instead, it is a plan of holistic and comprehensive development framed by careful study, extensive community input and a commitment to stewardship of our lands in Kaka'ako. Accordingly, the Master Plan is rooted in three core values: (i) a deep understanding and commitment to the surrounding community, its economic and social vitality, and its vested stakeholders; (ii) the creation of a sustainable and vibrant cultural life through sustainable land and building practices; and (iii) as first articulated by the State Legislature in 1976 and re-affirmed by enthusiastic community support in 2004, the cultivation of a mixed-use "urban village" and "urban-island culture" within the Honolulu's core.

These values (and the current Master Plan) were developed in concert with extensive stakeholder meetings and workshops with representatives from the Kaka'ako Improvement Association, the Kaka'ako Neighborhood Board, Enterprise Honolulu and the Hawaii Community Development Authority ("HCDA") solicitation and input over the last ten years. The parties understood that developing an urban village involves substantially more than creating new building structures and constructing residential housing. It requires a commitment to the community and providing the types of urban-island lifestyle choices demanded by those who make Kaka'ako their home. In this way, the Master Plan serves as the community's collective blueprints for the economic and social fabric of Kaka'ako.

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair
Members of the House Committee on Finance
February 25, 2014
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Prior to KS' Master Plan application submission to HCDA in November 2008, KS met with HCDA staff, planning professionals, and its greater community to develop the Master Plan. Since then, the public had the opportunity to comment on KS' Master Plan. HCDA took formal action to ensure public input on the plan including (1) mailing almost 12,000 flyers to persons on its "Connections" list, (2) posting the Master Plan on its website, (3) inviting comments from the public through an on-line site and a telephone comment line, (4) holding a community meeting for additional public input, (5) working with KS to address public comments, (6) conducting a contested case hearing (noticed and open to the public), and (7) holding a public hearing for final decision making.

By September 2009, when the Master Plan was adopted, the public had the opportunity to review and comment on the Master Plan for more than nine months and HCDA provided numerous comments to KS on changes to the Master Plan to address public input.

Like blueprints for any major project, changes to carefully crafted rules should not be made in piecemeal without regard to its effects on the whole community. Throughout the formulation of the Master Plan, stakeholders understood the importance, for example, of density in order to create a critical mass within the Master Plan area to ignite and sustain the revitalization of the Kaka'ako area. Simultaneously, planners balanced urban density with natural open public space to promote a healthy and sustainable community with renewed energy and spirit. Thus, spot changes to carefully reviewed plans and rules would undermine the economic and social fabric woven by the community without regard to the consequences on the entire neighborhood. Early entrants into this developing community should not be able to thwart the opportunity for thousands of new residents.

In reliance on HCDA's various acts and approvals (including the approval of the Master Plan), KS has devoted its resources over the past four years to have its blueprint implemented by the completion of Six Eighty (a reserve housing rental project), to continue its development of the SALT project (with a focus on nurturing developing small businesses), and to continue its work with developers to provide a variety of housing alternatives. KS is asking for these pieces of a complex puzzle be allowed to finally come together to create the urban village with an island-urban culture as envisioned by the Master Plan, for the benefit of the larger community of Honolulu and its residents. Time is of the essence.

Many provisions of the Bills are in conflict with what has already been approved under the Master Plan. Implementation of the Master Plan is well underway and changing the rules at this point is fundamentally unfair. Accordingly, KS respectfully requests that each Bill be amended to provide that "**development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the community development district rules in effect at the time initially approved by the authority and shall govern development on lands subject to such permit and agreement. These rights are not modified by the provisions hereof.**" This addition will confirm certainty for KS' multi-year efforts to deliver housing alternatives in the urban core in reliance on the Master Plan, which is important to keep the current momentum of developing a vibrant, sustainable community of people, culture, business enterprises and natural open spaces.

Thank you for the opportunity to provide our comments and proposed revisions to these Bills.

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

"Thank you very much, Mr. Speaker. In support with reservations. I do understand this does have a defective date. This clearly came out totally different from the original three measures that went into Finance, or possibly four measures. So I appreciate the continued dialogue going forward.

"My reservations is with removing the Kalaeloa board and the Heeia board. I mean, those two communities need representation and possibly their own boards out there to deal with separate types of issues. But again, this is a work in progress from what I see, 2020. We'll see what happens. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, I rise in support of this measure. I just have some brief comments. I'd just like to note that area elected officials and I have stated repeatedly in public that we support the development and modernization of Kakaako. And with that, we also support the modernization of the agency that has jurisdiction over that area, which is the Hawaii Community Development Authority.

"We have been working very diligently on the legislation that is before us. It is self-explanatory, but I would just like to summarize the major points of this bill.

"First, it will amend the composition of the HCDA board. Currently, there are three separate boards for Kakaako, Kalaeloa and Heeia. I would note that since May 2013, the seats that were designated for community representatives and cultural experts on each of these boards has been vacant.

"Second, this bill will increase public notice of development applications.

"Third, this bill will codify the existing and current practice of requiring the HCDA board and not the Executive Director to approve variances from development standards.

"Fourth, this bill will clarify the procedure for contested case hearings. And this is important, because currently, one of the projects has been in limbo for the past five months because the HCDA has not yet decided whether or not it has the authority to conduct a contested case hearing on the application.

"Fifth, this bill will codify the existing height limit in the Kakaako district.

"I wanted to thank all of the parties who have been involved over the past three or four months in discussing this legislation and coming to a potential compromise, and I'd like to just briefly explain who these parties are. First, it's the major developers and land owners in Kakaako. Second, the Pacific Resource Partnership. Third, the Hawaii Construction Alliance, which consists of the operating engineers, Hawaii Laborers Union Local 368, Hawaii Masons Union Locals 1 and 630, and the Hawaii Regional Council of Carpenters. Also involved in the discussion has been the HCDA board and administration, and Senate leaders, including the Chair of the Committee on Economic Development & Business, and the Senate Majority Leader who represents the Kakaako district.

"I just want to thank Members for their patience as we work through this legislation. It is truly a work in progress, but in the end I believe that we will have legislation that will be a win-win for all of the parties that I just mentioned. Thank you."

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

"Mr. Speaker, I rise in opposition once more, which I did on Second Reading. But this evening, what I wanted to share with the Members of the House was a different perspective not shared with us by the Representative representing that particular district. Earlier on Second Reading I stated for the record that in this development cycle there will be over 4,000 units. Low and moderate, workforce housing, reserve housing and rental.

"It is these individuals who do not have a voice at this period in time. If this is the way to address the housing shortage in the county of Oahu, I truly believe we should all be behind this particular measure, because every year, I believe the Housing Chair recognizes it, that we have been chasing. We need to build more homes for the present generation and future generation.

"What I would like to share with all of you, before I begin, was to first say this to all of you. May I incorporate the statements I made on the four bills on Second Reading as part of my testimony this evening?" and the Chair "so ordered." (By reference only.)

Representative Say continued, stating:

"But more importantly, this really hit my heart, with your indulgence Members of the House and the Speaker. And this was addressed to Chair Evans, Vice Chair Lowen and other Members of the House. This is dated February 29th, the day after our public hearing.

"I would like to thank you for taking time out of your Saturdays to listen to the public at the hearings regarding the Hawaii Community Development Authority. As a current Kakaako resident, I appreciate the care and attention that has gone into my neighborhood. I chose not to testify yesterday, but would like to make you aware of my thoughts. I was present for the entire day, over seven hours, and noticed something interesting about the testifiers. They were all older residents of Kakaako. I saw very few people from my generation. I am 28 years old and have recently achieved the dream of owning my own home. I bought a unit in 801 South Street, Building A, and I am the definition of workforce housing. I am supportive of the Hawaii Community Development Authority and the changes they are making to our community.

"While I agree that the number of buildings currently being built are alarming, I can understand the reasons. The housing market is finally

climbing and developers once again have a chance of making a profit and selling the units they are building, and there is a demand from the public for more housing. What surprised me was that all of the people who testified yesterday, many claim to be in support of affordable housing, but just don't seem to want it around them. This is unfair to my generation. Many of the current buildings in Kakaako are older than I am. Just because these people were here first and were able to purchase units in their buildings, does that mean that my generation shouldn't be allowed to have those same opportunities?

"After purchasing my unit, I visited the sales office many times to sign a stack of paperwork larger than my hands can hold, and I can personally tell you that I saw and met many of my future neighbors. Almost all of them were around my age, late 20's to early 30's. I personally know another person moving into 801 South Street. Her family is from Waianae and she is a teacher in town. She currently gets on the road at 5 a.m. to drive for two hours into town to get to school by 7. She purchased a one bedroom at 801, and she is going to be able to cut her commute from two hours to fifteen minutes, and is very excited to be closer to her students.

"I could tell you of the other stories I learned from others that I have met, but I hope my point is clear. And that is why I do oppose all these bills regarding the HCDA and to support the development in Kakaako."

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

Representative Say continued, stating:

"It is a shame to deny my generation and those to come the opportunities of living and working in town because the older retired generation has nothing better to do than complain about smells and their views being blocked. Thank you for your time and service."

"I'd also like to state for the record that I am concerned about the draft, because in the second part of the biennium budget, the operating budget is blanked out. We approved the biennium budget last year for the two years, and in this draft two it is blanked out, meaning that there may not be an authority if the House prevails in their operations and administration, because that is the House position going over to the Senate. Not unless, because you can say it's a defective date, can you guarantee me that the House will restore the funding that is in the biennium budget at this point in time.

"People have said, Mr. Speaker, that I am one that's all for the big developers. No. I'm very proud of the authority. Because why? They have extracted 4,000 plus units from these developers in the 20 percent reserve or cash in lieu. Where do you find housing that is being developed on behalf of the people of the State of Hawaii, the younger generation, in living in Honolulu proper, for the betterment of society today? Can you tell me where are we building more homes, using state monies with the appropriations that we appropriate for housing? Very little.

"I was there that afternoon when we had a joint hearing or informational briefing with Senator Chun Oakland and Chair Hashem in regards to housing, where the four different agencies made their presentation, the Hawaii Community Development Authority, the Housing Finance and Development Corporation, Public Housing, and finally the Department of Hawaiian Home Lands. Every department or every agency, state agency dealing with housing, are struggling in trying to develop and construct housing for the greater good of our community.

"This afternoon we had a lively debate. Which is when I say lively, a debate that was very educational. When one of our colleagues said, 'Yes, we were taking the low interest housing tax credits from the counties and giving it to the Department of Hawaiian Home Lands.' That is correct. It came through the Committee on Ocean, Marine Resources, & Hawaiian Affairs, and I supported that measure.

"But the four agencies are struggling to provide homes where we are not being as responsible as we can, possibly, to provide more general obligation bonds for public housing. To deny the development of 4,000 units in Kakaako, that is why I am opposed to any legislation this session

in regards to an authority that is doing its very best, which has taken them 37 years to achieve what they have developed and fruition.

"So in closing, I'm not in the driver seat, I don't know what the chairs have in mind, but I would hope and pray that we can preserve the Hawaii Community Development Authority and let them run the authority the way they should. These individuals who are on the authority are all volunteers. And in the minutes, I've read that the authority has to vote to grant the Executive Director the authority to consider the negotiations of variances, modifications, *et cetera*, in getting a project of this nature off the ground.

"So in closing, I would say this to my friends who are part of my journey, which is Mr. Ray Suefuji who was the first executive director from the County of Hawaii. Second, Mr. Rex Johnson. Third, Mr. Mike Scarfone."

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

Representative Say continued, stating:

"Thank you very much. Fourth, Mr. Dan Dinell, if you folks recall Dan Dinell? Fifth, Ms. Jan Yokota. And today, Mr. Tony Ching, who has seen the evolution of the authority in accomplishing its goals and objectives of 1976. Thank you very much."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I want to thank the previous speaker, the Representative from Palolo, for sharing with us that email from that 28-year-old who has the possibility to buy in Kakaako. One of the things that I really appreciate in this bill is that pages 20 and 21. It's not just about this one 28-year-old, it's about 28-year-olds in perpetuity. And what a very important measure in this bill would make that reserved housing, those 4,000 units, reserved housing remaining affordable in perpetuity.

"When you talk with folks in other jurisdictions and you ask them how do they keep and hold onto their affordable housing, it's very common to find 'in perpetuity' clauses in other states and jurisdictions, and it's been the hardest thing to get in this jurisdiction. So I think it's not just about that 28-year-old who sent that very moving email, it's about all future 28-year-olds, so that this 4,000 units remains affordable. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. Following on some of the discussion that's occurred. I'm absolutely in support of redeveloping our urban core, it's the place that we have to go. It is the only place we can develop, to put more density, more housing and to provide more homes for my friends, many of whom who are 28 years old. Myself, hopefully one day, since the median price of a house in my district is nearly a million dollars at this point.

"But I do have concerns, and these concerns were fleshed out in the hearing. Number one, that the reserved housing that's being provided be built for those folks from Hawaii. For folks who are 28-year-olds who want to be able to afford homes. To be reserved housing that isn't going to be falling through a loop-hole and ending up at a market rate for those folks who can't afford it.

"That is something that the director of HCDA sitting at the table said specifically that he supports a statutory fix to make sure that that doesn't happen. And I think pushing these bills forward to continue that conversation is what we need to do to follow through on our end to make sure that indeed these reserved housing units end up as reserved housing and end up benefitting the people that we want them to benefit. Thank you very much."

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

"Mr. Speaker, thank you very much. Mr. Speaker, I rise to speak in favor of this bill. Thank you. There's nothing in the bill that said that this bill

would stop any development from happening. The current development, which is still being planned, is going to be going through regardless of what happens in this bill.

"The thing that impresses me about this bill is it requires more transparency, requires more public hearing process, and requires the Legislature to have more input in the make-up of the board. And the reason why I say that, is this bill is not just about Kakaako. One of the things that I requested from the Majority Leader, along with others who were drafting this amendment, was that the other section be included as well, because I saw how HCDA treated the people of Kakaako.

"I saw how, in spite of tons of concerns, the Kakaako board has neglected to listen to some of the concerns. Currently in Kalaeloa there is some discussion about putting not one prison, but three prisons in Kalaeloa. So when we think about the future generation and what's going to happen to Kalaeloa and the Leeward side, at least this will ensure that there's enough public input. Thank you."

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of this bill with serious reservations.

"There are two points I'd like to make. First, I note that the draft before us still has the provision that eliminates all funding for the Hawaii Community Development Authority, and to that extent, I submit my comments at Second Reading, to wit:

"Standing Committee Report No. 550-14 states that the purpose of this measure is to enhance oversight of the Hawaii Community Development Authority (HCDA), but curiously, the bill does much more. It would effectively kill this agency by eliminating all of its state funding for Fiscal Year 2014-2015.

"The practical impact of this bill would be to make it impossible for new development in Kakaako to commence.

"During the public hearing on this bill, your Committee on Water & Land found that 'the public has been very vocal about community engagement, public notice, and public hearing procedures currently utilized. . . ' by HCDA, and that 'public transparency concerns have often been tied to addressing the issue of whether [HCDA] plans have adequately accounted for infrastructure concerns.' By taking this approach, your Committee on Water & Land would appear to have made a much more direct finding – that HCDA has not provided adequate due process for the residents of Kakaako, and accordingly, should not be allowed to authorize any new development there.

"If that is truly the case, arguably, the residents of Kakaako already have access to the courts to contest HCDA's actions under the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes (HRS), as well as Chapter 206E, HRS. There are general principles of common law that also are affected providing aggrieved parties the ability to challenge the decisions of an administrative agency.

"General due process considerations of fairness directly limit the manner in which an agency may exercise its designated responsibilities. A practice which violates due process cannot be excused because of mere administrative inconvenience. (See, State Dept of Environmental Protection v. Stravola, 103 N.J. 425, 511 A.2d 622 (1986))

"There are no simple answers as to what constitutes fundamental fairness, and each case must be considered and evaluated on its merits, giving weight to the effect of the decision on the agency's public policy.

"The controlling case would appear to be Mathews v. Eldridge, 424 U.S. 319, 96 S Ct 893, 47 L Ed 2d 18 (1976). Under the Mathews

balancing test, to determine whether an administrative procedure satisfies due process, a court must weigh:

- (1) *The private interest that will be affected by an official action;*
- (2) *The risk of erroneous deprivation of such interest or procedures used and the probable value, if any, of additional or substitute procedural safeguards; and*
- (3) *The government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail. (See, Am Jur 2d., Administrative Law §56)*

"But rather than let the courts figure out whether HCDA has violated fundamental fairness and entrust the implementation of well-established public policy to the HCDA – that our urban core be developed to meet our vast, unmet needs, including the lack of suitable affordable housing, insufficient commercial and industrial facilities for rent, residential areas which do not have facilities necessary for basic live-ability, such as parks and open space, and areas which are planned for extensive land allocation to one, rather than mixed uses – we endeavor to micro-manage HCDA to the point where it would no longer serve any effective use.

"If that is the will of this Body, so be it, but let's not kid ourselves and just repeal HCDA. If that is the new policy for the state, then how does House Leadership propose we address our growing unmet needs? Push development out to Leeward or Central Oahu? Windward Oahu? Use agricultural lands for residential housing? Sure, it is very easy to placate NIMBY residents in Kakaako by supporting a measure like this. But let's not forget that we've already invested hundreds of millions of dollars into Kakaako's infrastructure which according to experts has not come close to reaching its capacity. What about our unmet needs? Where are the solutions in this bill? And, please don't tell me that these individuals acquired their units unaware that future development was foreseeable. No one can claim that they purchased their homes believing no future high rise or similar building would be built.

"If House Leadership want this bill so badly, I'll play along. But I for one will not stand by and let them dismantle thirty years of urban planning without obtaining solid consensus on what we should do as an alternative. And if House Leadership truly want to lead this Body, I can hardly wait to see what they have to offer. Until such time, I cast my vote with serious reservations."

"Second, I would like to incorporate the words of my colleague from Kapolei as if they were my own. I agree that should this Body eviscerate HCDA, the people of Kalaeloa and Heeia will be especially aggrieved since HCDA is also charged with administering the Kalaeloa Community Development District and the Heeia Community Development District.

"For these reasons, I vote in support with strong reservations."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. Still in opposition, just brief rebuttal to the Finance Chair. I appreciate her comments, however, again if we're going back to the make-up of the board, that is why it's incumbent that we continue to have the community members involved in that planning. You take away that oversight, then you take away their abilities.

"In addition, I would ask the Members to look at the testimony specifically of the HCDA, as well as of the Attorney General's Office, regarding what this means to the previous composition of the authority, provided that a native Hawaiian cultural specialist would serve as a voice for the host culture. The current proposal does not make this position available to the authority. Notwithstanding the fact that the position has been vacant, that's not the point. The point is that the host culture would still be represented and would be represented in the current make-up of the board. If we are going to do that, once again we disrespect the host culture.

I continue to submit that this current bill is flawed. It is not going to address the affordable units.

"Also, I'd like to address some of the comments regarding perpetuity. For those of us who have a background in real estate development, we understand how affordable units work. The fact is that a developer is not going to build affordable units unless the numbers pencil out. Even with the land given to them, free of charge, the numbers still do not pencil out unless you are given some type of subsidy through government. That's the only way you can make affordable reserved housing units work for a developer to want to build them. You've got to incentivize that development. And so to say, 'Oh, we want to keep reserved housing in perpetuity.' Yeah, we can do that. It's called public housing. Thank you, Mr. Speaker."

At 8:25 o'clock p.m., Representative Carroll requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:26 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1866, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 35 ayes to 14 noes, with Representatives Aquino, Awana, Cachola, Cullen, Fale, Fukumoto, Hanohano, Har, Ito, Kawakami, McDermott, Say, Tokioka and Yamane voting no, and with Representatives Ward and Wooley being excused.

At 8:28 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2529, HD 3
H.B. No. 1866, HD 2

At 8:28 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:29 o'clock p.m.

Representative Cachola rose, stating:

"Mr. Speaker, there seems to be a mistake as to the vote on the HCDA 1866. Yes, I did not submit any green slip, but my *comadre* here said I voted no, but I did not. I'll be supporting it. Thank you."

The Chair then stated:

"Okay, I apologize, I got a clarification from the Clerk. For the record, Representative Cachola, your no vote, unfortunately though for this vote, it's counted as a no vote."

At 8:30 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:41 o'clock p.m.

THIRD READING

H.B. No. 2054, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2054, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM POWER OF ATTORNEY ACT," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2246, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2246, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2139, HD 1:

Representative Saiki moved that H.B. No. 2139, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

Representative Fale rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered." [Note: Representative Fale later changed his vote to a no vote.]

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

"Thank you, Mr. Speaker. In opposition. Thank you. I just wanted to read two things for the Members. This first one is from Beverly Kever and talking about the Sunshine Law when it was first enacted, and that's what this bill is seeking to water down. 'Initially the Sunshine Law was passed by the Legislature in 1975 in the wake of the Water Gate Scandal, so that opening up closed doors of government would allow sunshine in, that acts as a disinfectant to reduce mismanagement and even illegal and unethical decisions.'

"In our own state law in the HRS, it states that the declaration and policy and intent of this law is that in a democracy the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interests. Therefore, the Legislature declares that it is the policy of this state that the formation and conduct of public policy, the discussions, deliberations, decisions and actions of government agencies shall be conducted as openly as possible.

"Mr. Speaker, my concern here, and I understand that we're doing this to make it easier for some of our county councils to be able to get together and talk about things, but I don't think we should be reversing things that were meant to bring more transparency to government. I think maybe we should be looking at how we can bring that to other places, instead of going back in time. Thank you."

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

The motion was put to vote by the Chair and carried, and H.B. No. 2139, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fale and Fukumoto voting no, and with Representative Wooley being excused.

At 8:45 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2054, HD 1
H.B. No. 2246, HD 1
H.B. No. 2139, HD 1

At this time, the Chair stated:

"Page 26. Members, I'm going to take two bills out of order. House Bill 1415, there is a motion to recommit."

H.B. No. 1415, HD 1:

Representative Saiki moved that notwithstanding the recommendations contained in Standing Committee Report No. 646-14, that H.B. No. 1415, HD 1 be recommitted to the Committee on Judiciary, seconded by Representative Cabanilla.

The motion was put to vote by the Chair and carried, and H.B. No. 1415, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE BY PUBLICATION," was recommitted to the Committee on Judiciary, with Representative Wooley being excused.

At this time, the Chair stated:

"Next measure that we're going to take out of order is House Bill 1750, House Draft 1. I believe there is a Floor Amendment."

At 8:46 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:47 o'clock p.m.

H.B. No. 1750, HD 1:

Representative Saiki moved that H.B. No. 1750, HD 1 pass Third Reading, seconded by Representative Cabanilla.

At this time, Representative Oshiro offered Floor Amendment No. 2, amending H.B. No. 1750, HD 1, as follows:

"SECTION 1. House Bill No. 1750, H.D. 1, is amended by changing its effective date from upon approval to July 1, 2020."

Representative Oshiro moved that Floor Amendment No. 2 be adopted, seconded by Representative Say.

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

"Thank you, Mr. Speaker. This floor amendment is very simple, is very straightforward, and gets to the point. What this does would be to set the effective date as July 1, 2020 in this bill. The current draft of this bill, on Section 4 of page 2, is upon its approval. So that's the substantive amendment in this floor amendment, to change the effective date, instead of upon approval, to July 1 on 2020.

"In brief, let me explain to you why I think this is an appropriate amendment. I call it a friendly amendment, Mr. Speaker. I draw the attention of the Members to Standing Committee Report Number 648-14, House bill 1750, House Draft 1, third paragraph. 'Your Committee notes that without a malice element, the application of the offense created under this measure is potentially very broad and could have unintended consequences.' Unintended consequences. 'Given the possible reach of the proposed offense, it may raise constitutional concerns under the First Amendment.' Constitutional concerns under the First Amendment. 'Your Committee respectfully requests that as this measure moves through the Legislature that further discussion take place concerning whether such concern is warranted, and whether further limits should be placed on the offense to ensure that it is more narrowly drawn.'

"That suggests to me, Mr. Speaker, that it was the intention of the committee and the committee members and the chair that this bill would not pass from this Chamber with a clean effective date so that it could be adopted by the Senate, but that in fact they had intended to pass this out with what we call a 'defective effective date' for further discussion pertaining to the concerns raised in the standing committee report.

"For those reasons, Mr. Speaker, I propose this floor amendment as a friendly floor amendment to ensure that they are giving ample time to consider these important issues raised in the committee report. Thank you."

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

"Mr. Speaker, in opposition to the floor amendment. The information about the possible constitutional problems with this bill did not arise until after the committee had voted on it. So there was no mistake about the effective date, because we weren't aware of the problem until after we'd voted on it. I'm the one who requested to put the committee language in there to flag the next committee, so that it didn't pass on without further consideration, and I think the floor amendment is unnecessary for that reason. *Mahalo.*"

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

"Mr. Speaker, in support of the floor amendment. Now that I've heard the Judiciary Chair explain that committee report a little bit better to me, even more in support of this 'friendly amendment'. If his hands were tied at the time the vote was taken and it was upon effect at that point in time, found out this information afterwards, then we should have the opportunity right now to say, 'You know what, maybe we should put a defective date on it right now so it can be cleaned up.' Because right now, you know if we pass this out of here upon approval, we're saying, 'It's an okay bill,' when we clearly say in our committee report it's not an okay bill, Mr. Speaker.

"So I'm hoping we will have people hear this and support this friendly amendment. We're not killing the bill. We're allowing it for more discussion and we're supporting that committee report by changing this date, Mr. Speaker. Thank you very much."

At this time, Representative Saiki called for the previous question.

The motion that Floor Amendment No. 2, amending H.B. No. 1750, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representative Rhoads voting no, and with Representatives Johanson and Wooley being excused.

(Main Motion)

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

"Mr. Speaker, let's look at the current bill before us, obviously notwithstanding the committee report in the prior discussion that I would reference in this debate. It appears that this would be the will of this Body to move this thing forward as is. It's effective upon approval. And understand what that means. Not only does this contain the House position on this particular issue, a very, very important issue. Recall, I think they call it 'revenge porn.' It's something sick, it's something diabolical, it's cruel, it's heartless, and it seriously injures people and their lives. So it's dealing with a very important bill to criminalize this evil behavior.

"The concerns I have on this draft, Mr. Speaker, that's why I think there is some truth of the committee report, because if these issues of the mindset *mens rea* is not addressed, you could have a defective law in place that purports to get protection, but absolutely not. And you won't learn of that consequence, you won't learn of that consequence until it's too late and the case needs to be dismissed for obvious due process of constitutional defects.

"The First Amendment issue is also of concern, whether this abridges the practice right now where certain peoples using social media, like Facebook or Twitter or whatever those other things are, take pictures of their friends at the beach or at a party. You don't want to inadvertently catch them up in a crime as serious and terrible as this.

"If you look at the draft of what they've done here, it deviates very far from what was proposed by Imua Alliance. Mr. Coffield, who basically echoes the same suggestions of setting forth this law as also put forward by the Department of the Prosecuting Attorney and the State Attorney General's Office, and I'll direct the attention to those members. And this is what they state, City and County of Honolulu, 'We're supporting the intent of House Bill 1750 and proposing a House Draft 1, attached for your consideration. While the current language of House Bill 1750 attempts to address a problem that is certainly known to our department, we believe a slightly different approach will be more effective in establishing this behavior as a new criminal offense.' And the draft is contained in the record.

"Again, it's echoed by the Attorney General. 'The Department of Attorney General supports the intent of this bill. This bill creates a new offense regarding disclosing without consent nude images or images of a person engaged in sexual activity with the intent to harm the depicted person. The Department of the Attorney General agrees with and adopts the reasoning and amendments proposed in the testimony provided by the Department of the Prosecuting Attorney of the City and County of Honolulu, a copy of which is attached hereto. We respectfully ask the Committee to pass this bill using the proposed amendments provided by the Department of the Prosecuting Attorney of the City and County of Honolulu.'

"Two other points. The current draft before us sets the penalty as a misdemeanor. The proposal that was promoted by the Prosecuting Attorney's Office, Attorney General's Office, and Mr. Coffield from the Imua Alliance would make it a class C felony. Thank you, Mr. Speaker."

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

"In support of the bill. It seems to me like the concerns raised here underestimate the ability of the Senate to address the known flaws of the bill, particularly since we've already put in that I've already voluntarily signed off on a committee report that included them. So, I think we should move the bill across and take care of the problems. I think it's an important enough issue that we need to address it and we shouldn't end its journey right now, and we should send it to the Senate and let them work their will on it, and I'm 100 percent certain that this will not be the final draft of this bill. Thank you."

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

"Mr. Speaker, in support with strong reservations. May I have the words of the Representative from Wahiawa adopted as my own. Mr. Speaker, I would just have a preference that we do our own work. The last thing I want to do is rely on somebody in the Senate to do what we already know needs to be done. And for those reasons, Mr. Speaker, I think we should fix the problem."

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

"Mr. Speaker, since the floor amendment failed, I will stand here, with no other choice but to say strong opposition. Well, no, I'll do support with strong reservations for this time being. Only to say, this discussion should go forward. I don't, hopefully I don't want to say no on this because I don't want it to be publically out there that I said no. But I have some serious reservations with this going forward.

"I have said this time and time again. If we're going to pass things out of this Body, we better be serious about it. I understand the chair has stated in his committee report, and we provided an opportunity, which we have rules and we can propose amendments. Obviously, that didn't happen this evening. But I'm somebody that likes to stand on, this is our word and this is what we're going to stand by going forward, especially if we're going to put 'upon approval' in it. Those are serious words to me. So, right now, I will stand with strong reservations, Mr. Speaker. Thank you."

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

"Mr. Speaker, thank you. In opposition, just brief comments. I want to thank the Chair of Judiciary, I think he is very well intended. But, by his own admission, this bill is flawed, so the opportunity to fix it was offered via floor amendment to ensure that the House and the House's concerns could be addressed in conference, and yet we turned down that opportunity.

"We're essentially conceding the House position, and as the Vice Chair of Judiciary, I'm not comfortable with that. For those reasons, may I please have the words from the Representative from Wahiawa entered into the Journal as if they were my own, and may I please request permission to insert additional written comment into the Journal. Thank you," and the Chair "so ordered." (By reference only.)

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1750, HD1. Mr. Speaker, this bill is intended to address a great injustice that many people face when they unfortunately fall victim to unconsented media distribution of themselves in a sexually exploitive fashion. No one can deny that these acts are intended for social defacement, revenge, harm, and antipathy. While I support the intent of this bill, I have grave concerns that this bill creates more problems than it solves. As such, I do not believe that it is appropriate for the bill to advance in its current form.

"It is clear from testimony before the Judiciary Committee that the issue at hand is not just that of malice, but that of consent. The bill is silent on what constitutes consent, only that consent must be made at some point. As it is currently written, the consent of a sexually abused minor to the taking of a photograph would be sufficient for a pedophile to avoid prosecution under the offense identified in this bill.

"Additionally, in the standing committee report, the Chair of the Judiciary Committee notes:

"Your Committee notes that without a malice element, the application of the offense created under this measure is potentially very broad and could have unintended consequences. Given the possible reach of the proposed offense, it may raise constitutional concerns under the First Amendment."

"While I understand that HB 1750 is being advanced for discussion purposes, it is perplexing that the bill is advancing without at least a defective date. As demonstrated by the floor amendment proposed by the good Representative of Wahiawa, this Body does not seem concerned with the 'unintended consequences' and the 'constitutional concerns under the First Amendment'. However, the inaction of this Body to address this grievous oversight instead leaves the public to believe that the advancement of HB 1750 past Third Reading is a tacit endorsement of the 'unintended consequences' and the 'constitutional concerns under the First Amendment'.

"It is for these reasons Mr. Speaker, I am forced to oppose HB 1750, HD 1."

At this time, Representative Saiki called for the previous question.

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

Representative Oshiro rose to respond, stating:

"Thank you very much, Mr. Speaker. I'll be voting with reservations. And the reason why I'm voting with reservations is that there is no other vehicle that I know of. But I ask permission to submit written comments. Thank you."

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I speak in support but with very serious reservations.

"As noted during the debate on my previous motion to amend this bill, I want to make very clear that this bill is flawed, and by including a 'clean

effective date' ('Upon approval'), there is a very strong possibility that this House might not be able to have a say on what it looks like before it goes to the Governor.

"The Chair of the Judiciary Committee himself recognized that this bill is flawed when he wrote in Standing Committee Report No. 648-14:

"Your Committee notes that without a malice element, the application of the offense created under this measure is potentially very broad and could have unintended consequences. Given the possible reach of the proposed offense, it may raise constitutional concerns under the First Amendment. Your Committee respectfully requests that as this measure moves through the Legislature that further discussion take place concerning whether such concern is warranted, and whether further limits should be placed on the offense to ensure that it is more narrowly drawn." [Emphasis added.]

"Let me translate for the lay person:

"This bill is not ready for prime time but maybe the Senate will fix it for us."

"Are you kidding me? Instead of relinquishing the authority of the House to make this policy like Chair of the Judiciary Committee proposes, I had asked this House to take responsibility for fixing this obvious shortcoming by simply inserting a defective effective date or effective date of July 31, 2050. I apologize for belaboring that point, but I think it is very important that the record reflects that that is exactly what the bill before us will do – it sends a problematic bill to the Senate without the House ensuring that it be fixed before obtaining Final Approval.

"And why should we care? After all, so what if a flawed bill goes out? **Because there is the possibility the flawed bill will become law, and who knows how it might hurt people.**

"The testimony of Kris Coffield, representing IMUA Alliance, is fitting. He wrote:

". . . [F]ree speech activists, such as the ACLU, have claimed that restricting an individual's ability to transmit lascivious material online, no matter how inflammatory, is unconstitutional. Citing recent U.S. Supreme Court decisions affirming the protection of unsavory speech (overturning laws banning videos that show graphic violence against animals in one case, while upholding the right of Westboro Baptist Church to engage in homophobic protests in another), these groups contend that the First Amendment is a guarantor of rights, not taste. Yet, as UCLA law professor Eugene Volokh has argued, vindictive and non-consensual pornography distribution is more likely to be deemed a form of obscenity, which the Supreme Court has deemed unworthy of First Amendment protection. Moreover, proscribing revenge porn would not impede the ability of someone to share salacious images that serve the public interest. Women who shared nude photos of former New York congressman Anthony Weiner, for example, would be protected by the Court's reasoning in Synder v. Phelps (the Westboro case), where the majority distinguished between speech concerning public and private matters, saying that more rigorously protecting the latter does not cloud society's interest in fostering a meaningful exchange of ideas."

"Because of this, Mr. Coffield and IMUA ALLIANCE did the right thing. They worked with the City Prosecutor's Office and the Attorney General's Office to develop amendments that would provide meaningful protections for the public while addressing very real constitutional problems with the bill. And to my dismay, the proposed amendments were ignored by the Chair of the Judiciary Committee.

"As noted by the City Prosecutor's Office:

"Hawaii's existing offense of Violation of Privacy in the First Degree covers scenarios where the perpetrator installs or uses a devise to record another person in a private place in a stage of undress or sexual activity, without the depicted person's consent. It does not, however, cover scenarios where the depicted person initially

agrees to the photographs or video – often in the context of a romantic relationship – only to have one partner distribute those images via the internet after the relationship ends. The later scenario is a growing problem in Hawaii and across the U.S. Indeed, on October 1, 2013, Governor Jerry Brown (D) of California signed into law new legislation that prohibits a 'revenge porn' perpetrator from distributing sexually explicit pictures that were intended to be private. . . . Since then, a number of other states have also begun considering similar legislation.

"Revenge porn violates the privacy of the person whose private image is spread across the internet, putting that person at significant risk, in terms of her (or his) safety, career, reputation, physical and mental health, personal relationships, and so forth. . . ."

"Given the growing problems stemming from this type of activity, the Department strongly agrees that a new criminal offense should be created to discourage and/or appropriately punish those who would violate someone's privacy in this fashion."

"What's most important from the Prosecutor's testimony was the recognition that MALICIOUS distribution of private material should be prohibited. Without establishing the element of malice into the statute, we may be criminalizing a host of activities which I believe were never intended to be criminalized.

"A good example is this. A proud father takes a video of his toddler daughter. She is in the back yard, shirtless in only a diaper, splashing in a plastic, inflatable pool trying to cool off on a hot summer day. The diaper gets overloaded and falls off as she trips in the pool.

"Under the bill as presently drafted, the act of taking the video of his daughter -- who being two years old is not capable of giving consent nor can she determine on her own whether being nude at the time was voluntary -- may be a misdemeanor.

"The proud father emails this video to his mother and father. . . . the proud grandparents. The mere possession of the video by the grandmother and grandfather may be a misdemeanor requiring them to be fined not less than \$1,000. Keep in mind that the amount of the fine is set in this bill, meaning that the Court would have no discretionary authority to reduce or waive the fine given the context of the alleged action. Can you imagine, some grandmother next year in court fighting charges of unlawful distribution of sexual representation for having a video of her two year old granddaughter playing in a plastic pool?"

"And by making this bill effective upon approval, there is no guarantee that the bill would be further amended by the Senate, and there would be nothing the House could do to stop it. Do we simply leave it to the Executive Branch to save us from ourselves?"

"Let's just hope the Senate Judiciary Chair takes his job a lot more seriously than we may be doing. After all, isn't this bill our attempt to address a new type of vile and despicable crime that harms a person's public and private relationships? Isn't 'revenge porn' a growing threat to our residents and visitors so that it is important enough to address in a mature and somber manner? Have we squandered an opportunity to protect the vulnerable and the oppressed? I hope not.

"On the other hand, there is no other vehicle to address this issue. Consequently, this is the only bill and only hope for victims as well as law enforcement to protect our citizens and bring to justice these criminals. This being the case, I cannot vote against the bill, but only caution my colleagues and other stakeholders of the current infirmity and defects contained therein.

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

The motion was put to vote by the Chair and carried, and H.B. No. 1750, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ORDER," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Choy, Hanohano and Har voting no, and with Representative Wooley being excused.

At 9:01 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 1750, HD 1

H.B. No. 2205, HD 1:

Representative Saiki moved that H.B. No. 2205, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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 opposition to HB 2205, HD 1. The purpose of this bill is to remove the probation option for sentencing upon conviction of habitual property crime without the possibility of furlough or work release.

"The Office of the Public Defender noted in their testimony that it is entirely possible for a more serious offender to serve a shorter term of imprisonment than a less serious offender, under the conditions of this bill. While it is well known that I am tough on crime, this bill goes against common sense as it creates the possibility of a non-violent offender serving a longer jail term than a violent offender. By subjecting non-violent offenders to these punishment stipulations while simultaneously removing the possibility of furlough or work release, we are categorically criminalizing these offenses on a scale similar to sex offenses or drug related crimes.

"In 2012 the *Crime in Hawaii* report from the Office of the Attorney General reported that property crime, burglary, and motor vehicle theft were at a record low since data began being collected in 1975. This trend is again, apparent in testimony provided by the Office of the Prosecuting Attorney from the City and County of Honolulu. Keeping these data in mind, it is curious why a bill like this would be introduced. Other avenues of rehabilitation for property crime offenders exist that don't mandate such Draconian tactics, which are clearly not commensurate with the crimes committed.

"For the foregoing reasons, Mr. Speaker, I rise in opposition on HB 2205, HD 1. Thank you."

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

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

"Mr. Speaker, I'll be voting against this measure. Mr. Speaker, I think as this thing started out, I guess the impetus of this thing was to deal with the habitual property crime statute. But as I review the statute right now and the application thereof, I don't see a necessity to amend it as amended in this draft. There is no probation that is going to be allowed, but for those who are convicted under this statute, an indeterminate term of imprisonment of five years. So you just took away the discretion of the courts, and philosophically I have a concern with that, that extreme position. Thank you."

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise with reservations regarding HB 2205, HD 1, a measure that removes the probation option for sentencing upon conviction of Habitual Property Crime.

"Mr. Speaker, I am concerned that this measure may be too severe and removes flexibility for the courts.

"For these reasons, Mr. Speaker, I rise with reservations regarding HB 2205, HD 1."

The motion was put to vote by the Chair and carried, and H.B. No. 2205, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Hanohano, Har, Jordan and Oshiro voting no, and with Representative Wooley being excused.

H.B. No. 2408, HD 1:

Representative Saiki moved that H.B. No. 2408, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Mr. Speaker, may I request a ruling on a potential conflict? Mr. Speaker, if in fact this bill goes through and the letter 'H' is drawn first, I do believe I will be at an advantage and therefore I do believe that I have a potential conflict," and the Chair ruled, "no conflict."

Representative Har continued to speak, stating:

"With all due respect, Mr. Speaker, I would like to be recused from this vote. I am uncomfortable with this vote. Again, if the letter 'H' is drawn and if you read the preamble, it has been well documented that candidates who are listed at the top of the ballot are at an advantage and on average receive 2 percent more votes than had they been listed later on the ballot. I'm very uncomfortable to take this vote, Mr. Speaker. I would respectfully ask that you recuse me, if not, I'll be voting in opposition."

At 9:04 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:04 o'clock p.m.

Representative Har continued to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I will be voting in opposition and in an abundance of caution, I don't want there to be any allegations that if in fact, there is a 1 out of 26 chance that the letter 'H' could be drawn, statistically I would be at an advantage. I don't want there to be any allegations that this bill would directly benefit me, and in an abundance of caution, I will be voting no. Thank you, Mr. Speaker."

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

"Mr. Speaker, I'll be voting no also, and ask that the words of the Representative from Kapolei be adopted as my own. My last name is Oshiro, so usually I kind of fall back on the ballot. Thank you," and the Chair "so ordered." (By reference only.)

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. I will also be going *kako'o 'ole*, in opposition, and I would like to have the words of the Representative from Kapolei as if they were my own, since we both have 'H' as our last names. *Mahalo,*" and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, first let me ask for a ruling on a potential conflict. My last name begins with 'T' and it's normally at the end of the ballot," and the Chair ruled, "no conflict."

Representative Tokioka continued to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, for that purpose, I think this bill kind of confuses voters when they go to the election booths, and I think what we're trying to do is get them more involved and not less involved, and less confused. So, for those reasons I'm voting in opposition, Mr. Speaker. I do understand the reasoning for this, but I just think that people are going to get more confused in the State of Hawaii. Thank you very much, Mr. Speaker."

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

Representative Fale rose in support of the measure with reservations and asked that the remarks of Representative Har be entered into the Journal as his own, and the Chair "so ordered." (By reference only.) [Note: Representative Fale later changed his vote to a no vote.]

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

"In support. Surprisingly enough, only seven states use the alphabetical order like we do. Only six others, Alabama, Louisiana, Maine, Nevada, North Carolina, Vermont. Many other states, some use even less fair methods than we do where they, I think it was Nebraska, they list candidates by party in order of the party who received the most votes in the previous governor's race, which seems manifestly unfair to me.

"Others are even more fair than what this would be. Ohio for example, they rotate the names in each precinct. So it's almost completely random. So considering the advantages and disadvantage of where your name is placed, it seems to me that it is much fairer to do it in a random manner. Thank you."

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

"Thank you, Mr. Speaker. I'd also like a ruling on a potential conflict. My last name begins with 'A'," and the Chair ruled, "no conflict."

Representative Awana continued to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I rise with reservations. Just a few comments with my reservations, just a small rebuttal on the Judiciary Chair about being fair and not fair. I think similar to the good Representative from Lihue had made mention, we're trying to make it easier for our voters to go in and vote when they're looking at the ballot, and many of our voters actually have backgrounds in different countries, in different languages. So to place it in an alphabetical order, I believe it would make it a little bit easier for them to understand the alphabetical order of it all.

"I'd also like to make mention that during an election, I wasn't the first person on a ballot, although my last name starts with 'A.' So to make that statement, it doesn't necessarily mean that you will be elected, as I was. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. I do also have similar concerns that voters will be confused, because they won't be used to this system. Additionally, I think if we're going to be considering making changes to the ballot, we might want to consider putting the 'R' and the 'D' behind the name of the person, so that people are voting for the person first, instead of the party. So, just a suggestion if this comes up again later."

The motion was put to vote by the Chair and carried, H.B. No. 2408, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Fale, Fukumoto, Hanohano, Har, Oshiro and Tokioka voting no, and with Representative Wooley being excused.

H.B. No. 2666, HD 1:

Representative Saiki moved that H.B. No. 2666, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, I'll be voting no on this measure. The current draft is upon approval, so if it goes over to the Senate and they adopt it, it becomes the law of the land. Several years ago when we passed this measure to basically assist the vendors who may have some concerns regarding the age of the individual seeking to purchase a age restricted product, we assisted then with this ability to go and check out the IDs if they had what we called at that time a 'reasonable doubt' regarding the age. That's no longer applicable to the businesses in this draft here.

"I draw people's attention to what was submitted by the American Civil Liberties Union, this is what they state. 'Scanning by private businesses raises serious privacy concerns: Hawaii driver's licenses contain bar codes,' and we talk about bar codes in the first section of this bill regarding machine readable zone. That's on page 1 of this measure. 'Hawaii driver's licenses contain bar codes with significant personal information, including name, address, date of birth, hair color, eye color, height, weight, gender, license expiration date, organ donor status, driver's license number, fingerprint, medical indicators and driver classification code. As more personal information is amassed in more databases, the likelihood increases that the information will be misused or stolen.' Misused or stolen. 'Individuals cannot protect the accuracy or distribution of their personal information when it is held by others.'

"Let me give an example. In the time it took me to go down there and touch the floor and come back up, I could've scanned all the information of your driver's license and have them taken with me as I leave the store or my place of business. That's the danger we're talking about today. It goes on further, I think the Office of Consumer Protection, I think Mr. Kim, also opposes the bill as currently drafted. He raises the concerns that we all are well aware of.

"This past year when Target, TJ Maxx, 7-Eleven, and other businesses, well actually I think it's Target, actually Target set the stage along with some other businesses. It made us realize our greatest fears of capturing and soliciting and distributing personal information, financial data about us. If there's a doubt as far as the patron or customer at one's place of business and if you question the persons age, the best bet for you is to take a more conservative approach and don't do business with them. If you doubt the authenticity of the driver's license or the passport or the birth certificate or the state ID, you think it's phony, fake, not real, doesn't jive with the person before you, don't do business with them. And that's the choice they have now, that's the choice they've had for years and years and years.

"So I think when I weigh the benefits of this program against the harm and evils that can arise from unauthorized use and capture of personal data, I need to fall on the side protecting the personal property of individuals who unbeknownst to them may be captured at some business entity or even some rogue or renegade shopkeeper, or rogue or renegade sales clerk who might ask to review the driver's license or passport or state ID or other age verification.

"So that's my concern here. I know what they're trying to do here, Mr. Speaker. But again, in an abundance of caution, if there's any doubt as to the age of that person purchasing or seeking to purchase that age restrictive item, don't sell to them. That's a safer route, and I think achieves what we're trying to do here without jeopardizing or exposing other innocent customers. Thank you."

Representative Jordan rose to respond, stating:

"Mr. Speaker, maybe I'll provide a little more comments. Still with reservations. I was reviewing some of the testimony and some of it keeps referring to, if somebody doesn't look old enough to buy alcohol. Well, I distinctly remember, now I'm over 21, so my driver's license reads horizontal. And my understanding is we changed our driver's license to read vertical for people that were under 21.

"So, they don't even have to scan it. If they see it the other way, they know the kid's under 21. So then somebody will say, 'Well, this will help with out of state driver's licenses.' Well, listening to the good Representative from Wahiawa, I remember standing in line three months ago in a Longs Drugs, aka CVS. And there was a lady in front of me, very frustrated. And I was like, what's going on? And she was an out of state individual and handed her driver's license to Longs Drugs and they couldn't scan her ID, her driver's license, because she didn't have a bar code on there, and they were trying to fill something out for her. And then they finally had to call the manager over there, and how do you read this and how do you read that?

"So, I really don't want to get into the discussion about, well it's good for out of state driver's licenses. It's not. So this clearly tells me that there is an institution that could be capturing data, because they were capturing some data for this individual, for whatever application she was filling out for something she purchased at Longs.

"I have a serious concern on what they may or may not be gathering. I totally understand, we don't want youth buying alcohol, God forbid. I have picketed in my community, I know the bad places that sell it to my underage youth. I've worked with the liquor commission on how we can run sting operations. I totally understand that.

"But when we start talking about what businesses may be capturing and may be holding or not holding, or protecting or not protecting. When we hear large companies like Target get purged, that is very scary.

"I was comfortable with probably leaving another sunset date in this measure. This measure currently removes the sunset date. As you remember, we just passed this, what, two years ago? Not that long at all. I would be very comfortable if we left a sunset date in there. But what we're doing right now is removing the sunset date. And if I remember right, we put sunset days in there to keep testing it. I think we talked about a bill, the first one on this agenda, we kept putting a sunset date in there, to keep testing it.

"So, maybe I've just talked myself into opposition. Maybe I'll vote no on this for now, and hopefully when it comes back from the Senate, they'll put that sunset date back in for me, and then I can vote my reservations, my yes then. So for right now, Mr. Speaker, please note my 'no' on this vote. In opposition. Thank you."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I cannot disagree with the previous two speakers. Identity theft is a problem, it's real, it's on the increase. But let me tell you, Mr. Speaker, there's many ways to steal your identity. If you talk on your telephone, somebody can steal your identity. If you're on a computer, somebody can steal your identity. If you use an ATM, somebody can steal your identity. If you go into a restaurant and you use your credit card, somebody can steal your identity. If you're on the internet, shopping online, somebody can steal your identity.

"Mr. Speaker, I cannot object to any of those statements. It's real and it's something that businesses have been trying to address. And I can tell you, Mr. Speaker, but what this bill is about, is about providing tools. And like any tool, it can be used for good or bad. Take for example a hammer. A hammer can be used to construct or demolish. A screwdriver can be used to screw and connect or to unscrew and disconnect, Mr. Speaker. So tools are a double edged sword.

"What this tool will provide is for the industry, and based on the testimony from Hawaii Food Industry Association, an association that represents over 200 retailers, wholesalers, establishments where you buy

your eggs, cookies, bread, and you also buy your cigarettes and your alcohol. Industries that are asking for a tool to become more efficient in keeping alcohol out of the hands of minors.

"Yes, Mr. Speaker, there are some risks. But in the high volume world of retail, it can be very stressful for the cashier. I understand that in Hawaii, we have a great identification system where yes, if you are a minor under the age of 21, your driver's license is vertical. It makes it very easy for the cashier to be able to distinguish who is under age and who is not. But, Mr. Speaker, as technology advances, the technology for fake ID's have also increased.

"And let me remind Members, that we are the tourist capitol of the world. We have 49 other states, and to keep track of 49 other identification cards can be challenging. So this merely provides a tool for retailers, to help prevent alcohol getting into the hands of minors. Mr. Speaker, thank you, in support."

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

"Thank you very much, Mr. Speaker, a ruling on a potential conflict. I have a retail outlet that sells age appropriate products," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In support. I'd also like to adopt the words of the Representative from Kauai as if they were my own. Thank you. Mr. Speaker, we in the retail business, we do everything we can to track to improve business and things like that. We have, one of the things when I actually did operations, was we tracked how much sales we have per transaction and we encourage our employees to try and maximize that. We do that by how we place items throughout the store and things like that.

"But one of our policies, Mr. Speaker, is that we don't sell anything, anything for any reason, to minors. And when in doubt, don't sell. When in doubt, forget the sales per transaction. Even if you think the ID looks perfect, but something tells you that it might be wrong, or this doesn't look right, don't sell. That's our policy. But employees get lazy, Mr. Speaker. And for whatever reason, they get busy, and then they forget to card somebody, and then as we all know there's stings out there, and they get caught. And we ask them, 'Why did you do that? You know the policy.' And they say, 'I'm sorry, I forgot, I don't know what I was thinking.'

"This happens, Mr. Speaker. So these types of tools are very, very useful. For those reasons, I stand in support of this measure. Thank you."

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

"Mr. Speaker, in support with reservations. You've heard the voice of the empiricist, the actual experience, those two retailers. I'm a former retailer. Even though I didn't sell alcohol, I know there's difficulties with employees. The reality of this bill is, even though it could threaten an identity, it could also save a life. Mr. Speaker, the data says that there are 33,561 traffic accidents of which resulted in death nationwide. One-third, 33.3 percent of those, were under the influence of alcohol.

"Fast forward to Hawaii and its statistics. In Hawaii, there were 45 percent of all deaths from driving under the influence. And guess where we are nationwide? Number one. Number one death on the highways, followed by, I believe it's Connecticut and then North Dakota, in the 40 percentile of the deaths on the highway. So, Mr. Speaker, this bill that was passed before, as has been indicated, continues, and we don't know because there is an invisible data out there about how many lives this bill has already saved. So it's simply pushing it forward without an expiration.

"This is also to acknowledge however, that identity theft is a very real threat, cyber wars are very real wars. In the future, people are not going to be shooting at us, they're simply going to shut off our lights, shut down our banking, and we'll do the rest to ourselves. So identity theft is very real.

Cyber wars are very real. But so is alcohol. As we all leave here after 12 hours of debate, we're going to be facing some people who may have already been drinking.

"Mr. Speaker, it's been a long debate on this, but I think it's balancing the two issues of security as well as safety for those young people who shouldn't be drinking, who with this bill hopefully will not be so. Thank you."

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

"In support, Mr. Speaker. With the issue of security or identity theft, on Section 1, number 2 of the bill, it says that they only card the individual 'if there is a reasonable doubt of the individual having reached the minimum age required.' Which means they don't card everybody, Mr. Speaker. But I think this bill is a good enforcement measure as well as a deterrent for those who want to access alcohol that are not of age.

"So I think this is a very simple measure, but it's very helpful. So with that, Mr. Speaker, I think we've had a long debate so I call for the question. Thank you."

At this time, Representative Cabanilla called for the previous question.

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

"Mr. Speaker, ruling on a conflict of interest. My wife's family owns a retail supermarket chain that does card you," and the Chair ruled, "no conflict."

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise to state my opposition to HB 2666. While I support the intent of the legislation, to prevent underage sales of goods and services, I am concerned with both the feasibility and necessity of continuing this program. If the goal is to determine whether a customer is underage, only a simple visual scan of the identification is necessary, especially since Hawaii and over 30 states have vertical licenses (instead of horizontal) for underage persons.

"Additionally, I have serious privacy concerns relating to private businesses scanning licenses. Hawaii driver's licenses include significant personal information within the bar codes, including name, address, date of birth, hair color, eye color, height, weight, gender, license expiration date, organ donation status, driver's license number, fingerprint, medical indicators, and driver classification code. Allowing private businesses to scan government-issued IDs at their point-of-sale (POS) terminals, which are often connected to the internet, means the consumer's information is in danger of being hacked, as was in the case of the recent Target store hacking. For these reasons, I must oppose HB 2666, HD 1. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm sorry I didn't ask before, but could I ask for a ruling on a potential conflict of interest? Our family owns shares in a company that sells alcohol and tobacco," and the Chair ruled, "no conflict."

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

Representative McKelvey's written remarks are as follows:

"Mr. Speaker, in the age of the internet, minors can easily obtain high quality fake identification cards. The use of these skillfully altered

identification cards has made visual inspection an unreliable method of detecting fake or altered identification cards. I believe that there is an approximate 20 percent failure range by licensees selling liquor to minors despite the use of Hawaii driver's license and state identification cards using vertical formats and clear notation on the card indicating the date on which the holder will obtain the age of maturity.

"Businesses selling liquor, tobacco, or other age-restricted products should be allowed to scan the identification of all customers for the purpose of verifying age before completing the sale of these products. By doing so, the business owner protects themselves from litigation and minors are further protected from a myriad of alcohol related problems.

"Furthermore, this measure also maintains the necessary privacy protections ensuring that the scan is solely for the purpose of verifying the age of the customer and the validity of the ID card."

The motion was put to vote by the Chair and carried, H.B. No. 2666, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL INFORMATION," passed Third Reading by a vote of 41 ayes to 9 noes, with Representatives Fale, Fukumoto, Hanohano, Johanson, Jordan, Matsumoto, McDermott, Oshiro and Thielen voting no, and with Representative Wooley being excused.

H.B. No. 1812, HD 1:

Representative Saiki moved that H.B. No. 1812, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise with reservations regarding HB 1812, HD 1, a measure that requires additional detail and updating for annual reports to the Legislature of police misconduct.

"Mr. Speaker, the State of Hawaii Organization of Police Officers (SHOPO) had a number of concerns regarding this measure including the following testimony:

"[T]he county police departments will be in violation of HRS section 92F-14 (b)(4)(B) and this law should the descriptions they provide indirectly identify an officer who has been suspended, or was discharged without first having had the opportunity to exercise and exhaust fully all of the administrative remedies, which are specified in the collective bargaining agreement and in state law."

"For these reasons, Mr. Speaker, I rise with reservations regarding HB 1812, HD 1."

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

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, H.B. No. 1812, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Hanohano and Ito voting no, and with Representative Wooley being excused.

At 9:29 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2205, HD 1
H.B. No. 2408, HD 1
H.B. No. 2666, HD 1
H.B. No. 1812, HD 1

H.B. No. 1926, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1926, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2654, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2654, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIM RESTITUTION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2280, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2280, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HURRICANE RESERVE TRUST FUND," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1704, HD 1:

Representative Saiki moved that H.B. No. 1704, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

"Strong reservations, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and H.B. No. 1704, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RESEARCH ACTIVITIES," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Say voting no, and with Representative Wooley being excused.

H.B. No. 1847, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1847, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representative Wooley being excused.

H.B. No. 1848, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1848, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representative Wooley being excused.

At 9:32 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1926, HD 1
H.B. No. 2654, HD 1
H.B. No. 2280, HD 1
H.B. No. 1704, HD 1
H.B. No. 1847, HD 1
H.B. No. 1848, HD 1

H.B. No. 2342, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2342, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC FILING OF TAX RETURNS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2573, HD 1:

Representative Saiki moved that H.B. No. 2573, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"In support with reservations, Mr. Speaker. I just want to flag this, I know it's late, but I'm actually getting inquiries about this from my district. My counterpart did vote no on this measure because of the fact that the many members of my district feel that the string guitar is perhaps more fitting of an instrument. However, in deference to the speaker in the Portuguese community, I'll just go with reservations for right now. Thank you very much."

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

"Mr. Speaker, in opposition. As a proud Portagee, yeah my mom was half, I grew up playing the *'ukulele*. I caught the bug in fourth grade. Got obsessed with the instrument, learned Jake Shimabukuro songs. Performed with him on stage, later went on to teach *'ukulele* at Palolo Elementary and a few other schools through a non-profit that me and my brother helped organize. Gathering volunteers, organizing their May Day, and bringing Jake down to go play with them. It was amazing.

"I love the instrument, won money off contests. That's me bragging. That being said, it made me into the musician that I became. It got me into guitar, slack key, other instruments, bass, Hawaiian music falsetto. One thing I was not able to learn was the steel guitar. It's very, very difficult. And I really admire Joseph Kekuku from Kahuku for the advent and what ultimately proliferated throughout the country, community, and world-

wide. And we need to, I think if we're going to designate an official string instrument, obviously it should be that. And it's gaining a lot of public support, too. I'm sure that you guys got a lot of emails. But just out of respect to the originator of the instrument and our host culture, I went from reservations to opposition this reading. Thank you."

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

"Thank you, Mr. Speaker. I rise in strong support of House Bill 2573, HD 1. Thank you, Mr. Speaker. The beauty of our island state is that we've been able to *hanai* the customs and traditions from those who have arrived here. Our local creole language known as 'pidgin' is an adaptation of those who worked on the plantation. A mixture of Hawaiian, Chinese, Filipino, English and Portuguese.

"Along with the Portuguese from Madeira, may I say the place where Speaker Souki's family is from, came the *machete*, 135 years ago, and as stated in the museum of making music, a *'ukulele*'s history, the *machete*, renamed *'ukulele*' in the Hawaiian language meaning literally 'jumping flea', rose quickly to popularity among the native population and became regarded as Hawaii's national instrument.

"The key reason for this immediate acceptance was the patronage of Hawaii's royal family, most notably King David Kalakaua, an accomplished musician and composer who became an avid *'ukulele* player. Augusto Dias, who introduced the *'ukulele* to the royal family, had a long standing relationship with King Kalakaua. He regularly performed at Iolani Palace, demonstrating his unique Portuguese style of playing melody and accompaniment, and even taught the king to build his own *'ukulele*.

"Apart from royal patronage, the creative design of the machete into the easier to play *'ukulele* with its endemic koa wood construction and a slightly different tuning, helped the popularity of this portable instrument. Because of the use of Hawaii's native koa wood, which has been long associated with royalty on the islands, the *'ukulele* became a symbol of *aloha aina* or 'love of the land', and of support for the Hawaiian sovereignty during that era of great political turmoil when the monarchy was struggling to preserve Hawaiian independence.

"So, Mr. Speaker, as you can see, nothing speaks closer to the hearts of our Hawaiian heritage than that of the *'ukulele*. If the *'ukulele* is good enough for our Hawaiian royal family, Mr. Speaker, it's good enough for the rest of us. For these reasons, I stand in support. Thank you, Mr. Speaker."

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

"Mr. Speaker, strong support and I'd like to ask to incorporate the words of the previous speaker into the Journal as if they were my very own. And I'd like to also remind the Maui delegation that their official flower is a pink rose. I don't think that's native."

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

"Mr. Speaker, in support, and just for the record, Joseph was from Laie, not Kahuku."

Representative Ing rose to respond, stating:

"I wanted to thank one of the previous speakers for her elegant speech, really softens the blow. But also to note that one of the reasons why *'ukulele* is so popular today is because it resembles the *ipu*, you know, *ute*, *u te te*. It is now the preferred method of percussion in all Hawaiian music. So just that side note. Thank you."

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

"Yes, it was true. I support this measure very strongly and I wish to incorporate the words of course from the Representative from Nanakuli, and I want to say this on behalf of my mother who was from the island of Madeira, and let me say she loved to sing Hawaiian music. *Aloha*."

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

"Mr. Speaker, I had a long speech, but it's late, so can I just insert comments into the Journal? In strong support to the children, the *'ukulele* band from Kapaa Middle School and Chiefess Kamakahalei Middle School on Kauai and all the teachers that have prompted this issue to become a potential bill. So thank you for that, Mr. Speaker.

"I'd also like to thank my office for doing all of the research on this bill, and I'd like to thank the Chair of the Ocean, Marine Resources, & Hawaiian Affairs Committee because, as we all know, I wanted to make sure that this thing was *pono*. So I did check with the resources of the committee chair. And so for those reasons, Mr. Speaker, I'm in strong support. I'd also like to add the words from the Representative of Nanakuli into the Journal as if they were my own as well," and the Chair "so ordered." (By reference only.)

Representative Tokioka's written remarks are as follows:

"When I was a young boy on Kaua'i, sitting around with family and friends playing the *'ukulele* was a weekly, if not daily, affair. I come from a musical family. My mother is incredible on the *'ukulele* and an equally talented falsetto singer. In my *'ohana*, it was always a musical trio. My mom, my brother --- and, the *'ukulele*. She and my brother would sing and harmonize to *na mele Hawai'i* with the *'ukulele* effortlessly accompanying them with its deep, rich and resonating tones. I would sit, listen and simply enjoy – occasionally catching myself singing along. The *'ukulele* is MORE than just a stringed musical instrument. It is undeniably a part of Hawaii's musical history, just as it is a part of my own personal history.

"During Hawai'i's plantation days, circa 1879, Portuguese immigrants brought with them a 'small guitar' called the *braguinha* or the *machete*. King David Kalakaua, affectionately known as the Merry Monarch for his love of music, became quite fond of this new instrument. With a new koa wood design, a change in its strings' tuning and the Royal stamp of approval, this new instrument became what we know today as the *'ukulele*. King Kalakaua, true to his nickname, loved music both traditional and new and embraced the *'ukulele*. He incorporated the *'ukulele* into his coronation and jubilee celebrations and became quite the *'ukulele* player himself.

"Post World War II, the *'ukulele* could be found state-side coming home with GI's whom were stationed in Hawai'i and the South Pacific. As was the case in Hawai'i, as the *'ukulele* made its way around the world, so followed its popularity. Through the years, many notable individuals have not only enjoyed the *'ukulele's* unique sound, but have also learned to play it themselves. Yes, amongst the incredibly long and distinguished list of *'ukulele* greats here in Hawai'i – we add to it, an astronaut, a Prime Minister, 75 percent of the Beatles, a loveable red-head, the 'Oracle of Omaha', The King, POTUS, an actress from the golden age of Hollywood and yes, of course, the Green Goblin from *Spiderman*. Indeed, Neil Armstrong, Tony Blair, John... Paul and George, Lucille Ball, Warren Buffet, Elvis, President Obama, Gretta Garbo and James Franco all play the *'ukulele*.

"Today, the *'ukulele* is as essential to Hawaiian culture as it was at its introduction. Officially recognizing the *'ukulele* as the state's string instrument would help to instill a sense of pride within and beyond the *'ukulele* community. It would also link present and future generations of *'ukulele* players with its illustrious past. This bill would also provide recognition for the *'ukulele* that extends past the instrument itself paying tribute to the world class status of the *'ukulele*, the world class musicians whom play it and forever coupling the beauty of the *'ukulele* with the beauty of Hawai'i."

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

"*Mahalo ho'omalu 'olelo*. Thank you, Mr. Speaker. *Kako'o loa*. In strong support. I understand both sides of the story. I can see the Representative from Maui trying to have the steel guitar as the string instrument. However, there's also other categories. So if you're really thinking about it, you could also have a category of Hawaiian made instruments by native Hawaiian, *kānaka maoli*, instead of putting it into the string instrument.

"But the only reason the *'ukulele* is very fitting in this category is because it became Hawaii's icon. And a lot of people that come to Hawaii, you see them at the airports, they're all taking home *'ukulele*. Or they all go to the *'ukulele* shops to at least buy the instrument. Because when I'm at the airport, I see lot of, from *keiki* to *kūpuna*, always carrying their *'ukulele*, and I know if they're tourists that came from the mainland or from Australia, from Japan, from Korea, carrying the *'ukulele*. It makes them feel like they really had a Hawaiian experience, and that's part of the memories that they take home from being in Hawaii. *Mahalo*."

The motion was put to vote by the Chair and carried, and H.B. No. 2573, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE INSTRUMENT," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Ing, Lowen and Matsumoto voting no, and with Representative Wooley being excused.

H.B. No. 2365, HD 1:

Representative Saiki moved that H.B. No. 2365, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I just would like to reference my 'with reservations' on Second Reading. Thank you," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and H.B. No. 2365, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2584, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2584, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL INJURY PROTECTION BENEFITS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2267, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2267, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

At 9:43 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2342, HD 1
H.B. No. 2573, HD 1
H.B. No. 2365, HD 1
H.B. No. 2584, HD 1
H.B. No. 2267, HD 1

H.B. No. 2341:

Representative Saiki moved that H.B. No. 2341 pass Third Reading, seconded by Representative Cabanilla.

At this time, Representative Ward offered Floor Amendment No. 4, amending H.B. No. 2341, as follows:

"SECTION 1. House Bill No. 2341 is amended to read follows:

SECTION 1. Section 231-9.4, Hawaii Revised Statutes, is amended to read as follows:

"[H]§231-9.4 Credit or debit card remittances.[H] In addition to sections 237-31, 237D-6.5, and 251-5, as well as any other form of payment

allowed under provisions of title 14 administered by the department, the director, by rules adopted pursuant to chapter 91, may permit the use of credit or debit cards for remittances made to the department. A service fee shall not be [required] assessed by the department for the use of debit cards [for remittances, but may be required by the department for the use of] or credit cards for remittances.

For purposes of this section:

"Credit card" shall have the same meaning as provided in section 478-1.

"Debit card" means any card, plate, or other single credit device issued with or without a fee to a cardholder to purchase goods or services or to obtain cash that is debited from the cardholder's checking or other bank account."

SECTION 2. Section 231-9.9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director of taxation is authorized to require every person whose tax liability for any one taxable year exceeds [~~\$100,000~~] \$25,000 and who files a tax return for any tax, including consolidated filers, to remit taxes by one of the means of electronic funds transfer approved by the department; provided that for withholding taxes under section 235-62, electronic funds transfers shall apply to annual tax liabilities that exceed [~~\$40,000~~] \$25,000. Notwithstanding the tax liability thresholds in this subsection, the director of taxation is authorized to require any person who is required to electronically file a federal return or electronically remit any federal taxes to the federal government, to electronically file a state return and electronically remit any state taxes under title 14 to the department. The director is authorized to grant an exemption to the electronic filing and payment requirements for good cause."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2014."

Representative Ward moved that Floor Amendment No. 4 be adopted, seconded by Representative Fukumoto.

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

"Thank you, Mr. Speaker. This is a friendly floor amendment. It basically is going to save taxpayers money, and it's going to put more money in the state coffers quickly. This bill basically says, if you file your taxes electronically, you will not have to pay what otherwise now is 2.32 percent on your GET tax that is due.

"Mr. Speaker, we know that whenever you go to a store and you swipe your credit card, they don't then add on the 2.3 or whatever the Visa or the Mastercard or maybe a higher American Express 3 percent is. That's the cost of doing business. Right now, Mr. Speaker, we've got, I think, a dilemma.

"The way that people are sending in checks, it takes sometimes five to ten to even two weeks before it gets into the coffers of the state treasury, because it's checks. Right now we have 18 percent of our people who are paying electronically. This amendment simply says that if you pay electronically, which means quicker and faster that we can get the money, we're not going to charge you that 2.3 percent.

"It's an incentive, it's a simple thing, it's a user friendly thing and quite frankly, Mr. Speaker, when I pay the state on time, I don't think I should be penalized for that. And that's with my own GE Tax license. Why should we have to do that?

"This is a way of doing it, because we are now forcing people to file electronically. And if we're forcing them to file, we shouldn't be charging them for us to be getting their payment. That's basically all, it's simply a friendly amendment to make commerce go quicker and the treasurers of our state fill up faster. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. I do appreciate the comments from the Minority Leader Emeritus, and just because it's from a friendly introducer doesn't mean it's a friendly amendment. In this situation, the charge that is assessed to electronic filers is not a charge by DOTAX, it's a charge from the credit card and debit card companies. So what we have been trying to do between the Finance Committee and DOTAX is to change the behavior of DOTAX, so instead of DOTAX getting into a contract and having the debit and credit card assess fees, which DOTAX passes along to the users, what we want them to do is negotiate a contract for a flat fee.

"So I do appreciate the comments, and I think the better approach is for them to go and renegotiate the contract with the various vendors and the credit card companies and say, 'If you're going to do a credit card electronic filing, the state will pay a certain fee for you to provide that service,' then it won't make sense.

"In this situation, if you don't allow any assessment and fees, or assessment of use of debit and credit card, what that's going to do is there's no credit card companies and debit card companies that will want to do business with the state. And in that sense, we're going to nullify the e-filing systems.

"So I will continue to work with the introducer of this floor amendment, because I do think it's warranted, and we'll have further discussion. Thank you."

The motion that Floor Amendment No. 4, amending H.B. No. 2341, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC FILING AND PAYMENT OF TAXES," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representative Luke voting no, and with Representatives Carroll and Wooley being excused.

(Main Motion)

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

"Mr. Speaker, with reservations. My reservations, Mr. Speaker, is currently the measure reads anyone owing more than \$100,000 annually is required to electronically file your payment. They're reducing that all the way to \$25,000. That's a large group you're going to capture. Now, I get it. You want those revenues to come into our General Funds lickety-split. We can get it in a few days versus several days waiting for a check to be mailed.

"I just have some reservations on, is my system going to be able to handle this? Because you're talking a large populous. You have individuals that may owe more than \$25,000 in total liability in one year. So, this is going to capture a large group. Again, I totally understand. We need to get our revenues in here a little bit quicker. I would be much more favorable of going to maybe \$75,000 to see how my tax system is going to be able to handle that, because currently they're supposed to be putting a whole new system in there.

"So, other than that, I'm in favor of doing electronic filing of your payment. IRS has been doing it for a very long time. But I just have some slight reservations on how many people this is going to capture, and is our system going to be able to handle that. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, brief comment with reservations. Mr. Speaker, the former speaker is correct that as we move from \$100,000 per year down to \$25,000, that's a huge number that it's going to capture. That's about maybe \$2,000 a month of gross excise tax. That means there's going to be a lot of people in this pool. And if there's a lot of people in the pool who don't want to pay, as the Chair of Finance said, this assessment that they fear that if they don't have it for the vendor they're not going to be able to

do business with them. That's about \$750, if it's a 2-3 percent, \$500-\$750, that it's going to cost them to use our website.

"Mr. Speaker, the bottom line is, we should make it easy for them to pay us. That was the whole point of the amendment and the whole point of what I hope is going to be negotiated as a lump sum, so people can pay through the electronic process, through the website, through the *ehawaii.gov* and not be penalized. But quite frankly, if you can send a check for whatever it is now, 45, 50 cents for a stamp. Twelve stamps is going to save you more than \$500-\$700. It doesn't make incentive sense in my point, Mr. Speaker.

"The cost of doing business is what every entity in the state has. And we are not practicing entrepreneurial sound principles by punishing people to pay us quicker, and the amount of money that we owe on time. So, for those reasons, Mr. Speaker, with reservations. We've got to update our DOTAX system. Fortunately, the Finance Committee had a tour, and it was almost embarrassing how outmoded the place is. They didn't have Lotus computers, but it was getting close to that. And with the lack of personnel, it needs upgrading to say the least. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and H.B. No. 2341, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC FILING AND PAYMENT OF TAXES," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

At 9:52 o'clock p.m., the Chair noted that the following bill passed Third Reading:

H.B. No. 2341

H.B. No. 2012, HD 2:

Representative Saiki moved that H.B. No. 2012, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations on HB 2012, HD 2. The purpose of this bill is to create consumer safeguards from online ticket scalping sales for concerts and events in Hawaii. This bill makes it a violation to sell any ticket to a concert, game, contest, exhibition, game, or any other event at a price greater than the price listed on the ticket.

"It is important to ensure that consumers have access to fair and reasonable ticket prices for events and not be held hostage by computer software that circumvents online safeguards for the purposes of scalping, like what took place at a recent Bruno Mars concert. However, testimony on this bill's efforts to limit ticket prices on a secondary market to face value has made it clear that this may be difficult to enforce and have unintended consequences. Namely, these restrictions could force credible, online resale marketplaces to cease offering tickets for resale in Hawaii. If this happens, local residents may resort to street level scalpers and websites such as Craigslist, which offer no consumer protections. By resorting to these methods, there is no guarantee that purchased tickets are genuine.

"For the foregoing reasons, Mr. Speaker, I rise in support with reservations on HB 2012, HD 2. Thank you."

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

The motion was put to vote by the Chair and carried, and H.B. No. 2012, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER

PROTECTION," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Hanohano voting no, and with Representative Wooley being excused.

H.B. No. 2043, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 2043, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE APPRAISERS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1503, HD 1:

Representative Saiki moved that H.B. No. 1503, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"If you could just note my reservations. Just a very brief comment, which is that I don't have a lot of concern and I actually appreciate the measure because we've made an exemption for people who don't want smoking of any kind in their residences. But I do have a little bit of a concern that growing may create an attractive nuisance that could be dangerous for the property owners, and if there is a way that we can address that in the next versions of this bill, that'd be great. Thank you so much."

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

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

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

"*Mahalo ho'omalu 'olelo.* Thank you, Mr. Speaker. *Kako'o loa.* In strong support. *'O kēia pila e kokua na po'e e puhi pakalolo ai'ole ai pakalolo no ko lākou ola ana. He pila maika'i loa. Mahalo.* This bill helps medical marijuana patients. This is an excellent bill. Thank you."

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

"Thank you, Mr. Speaker. With slight reservations. Thank you."

Representative Aquino rose and asked that the Clerk record an aye vote with reservations for him, 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 Oshiro rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I have reservations. Let me explain real quickly. The reservations I have is that I think right now they're going away from smoking marijuana to actually burning it through an electronic device. I think that might fall within the purview of this code right here. Thank you."

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

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1503, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1525, HD 1:

Representative Saiki moved that H.B. No. 1525, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Reservations, small comment please. Mr. Speaker, we have a Council on Revenues. We have a Tax Review Commission. Why do we have to create this Fiscal Responsibility Commission to tell us how to raise taxes? I think it's a redundancy, it's a waste of taxpayers' money, it's bureaucratic, and it's going to be, simply, what we already have through those other institutions. For those reasons, I don't think it's a good policy."

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1525, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FISCAL RESPONSIBILITY," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

At 9:57 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2012, HD 2
H.B. No. 2043, HD 1
H.B. No. 1503, HD 1
H.B. No. 1525, HD 1

H.B. No. 1719, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1719, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1870, HD 1:

Representative Saiki moved that H.B. No. 1870, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I'm voting aye, but I would like to point out some omissions in the bill. The measure proposes a tax credit for residential backup generators for the purpose of providing emergency power to individual residents. It's a great start in the right direction, but here's a couple of things. First of all, there should be a definition of the residential backup generator to clarify what type of generator it is, and it should include all types of electrical generators. Gas, natural gas, liquid propane and diesel. But the main thing, the main flaw in the bill, is that the

tax credit should include alternative types of energy storage system technologies that provide the same residential backup energy. And these should be battery backup power, which are fast and easy startup, silent, emission-free operation, no need for external fuel to power the battery energy backup. And you can possibly configure your battery backup system to be recharged by a wide range of renewable energy sources, such as solar.

"So, while the bill is sort of a timid step forward, I would like to see it have more energy, and I hope that that will happen when it goes over to the Senate. Thank you."

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

"Mr. Speaker, with reservations. I also appreciate the intent, but I would just also note that maybe should also look at considering a residential credit for battery backup in addition to this. And then just noting that there was no testimony in support when it had its hearing in Finance."

The motion was put to vote by the Chair and carried, and H.B. No. 1870, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1893, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1893, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2370, HD 1:

Representative Saiki moved that H.B. No. 2370, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I waited 20 pages for this, so I guess I might as well do it. I rise in opposition to HB 2370, HD 1. I read a lot of tax bills, but this one was particularly troublesome to me. What this bill does is makes partial payments to the Hawaii State Tax Collector for delinquent taxes be applied equally to interest, penalties and taxes. I think the introducer of the bill had good intentions, they wanted to help the taxpayers. But this kind of stuff, when it relates to taxes, is never simple. So let me make a few points.

"First and foremost, it's important to note that we're talking about a person who has not paid all of his taxes. Second, in order for the state to service, and we really want to service these delinquent taxpayers properly, there must be sufficient motivation for the taxpayer to come forward voluntarily. If the taxpayer comes forward voluntarily, then the state should afford the taxpayer an opportunity to allocate their payments in a matter that is most beneficial to the taxpayer.

"The most beneficial allocation will not necessarily be an equal allocation between interest, penalties and taxes. For example, if you look at the taxes that you owe and there's some trust fund liability, you may want to allocate your payment totally toward that tax. If your penalties are not already fully assessed, you may want to, again, go toward that tax or you lessen your penalties. You may want to allocate your payments toward interest, if you're a business you can deduct interest. If you're contemplating bankruptcy, you may want to look at the age of the tax and allocate your taxes appropriately to that.

"You have to look at the tax and the assessment to find out what the best allocation is for your payment. And there is a tax collection service that allows this. They're called the Internal Revenue Service. Revenue Procedure 2002-26 states, 'If additional taxes and penalties for one or more taxable payers have been assessed against the taxpayer, at the time the taxpayer voluntarily tenders a partial payment that is acceptable to the service and the taxpayer provides specific written directions to the application of that payment, the service will apply the payment in

accordance with those directions.' That's how you help the taxpayer. That is the better alternative.

"Mr. Speaker, I would like to request that Rev Proc. 2002-26 be entered into the Journal along with my remarks. This bill, I know it's trying to help, but it's not very well thought out, and it's for those reasons I oppose this bill. Thank you."

Representative Choy submitted the following:

"Rev. Proc. 2002–26

SECTION 1. PURPOSE

The purpose of this revenue procedure is to update and restate the Internal Revenue Service's position regarding the application, by the Service, of a partial payment of tax, penalty, and interest for one or more taxable periods. This revenue procedure supersedes Rev. Rul. 73–304 (1973–2 C.B. 42); Rev. Rul. 73–305 (1973–2 C.B. 43); and Rev. Rul. 79–284 (1979–2 C.B. 83).

SECTION 2. SCOPE

This revenue procedure applies to all taxes under the Internal Revenue Code, except alcohol, tobacco, and firearms taxes and the harbor maintenance tax. For purposes of this revenue procedure, the term "penalty" includes any additional amount, addition to tax, or assessable penalty.

SECTION 3. PROCEDURE

.01 If additional taxes, penalty, and interest for one or more taxable periods have been assessed against a taxpayer (or have been mutually agreed to as to the amount and liability but are unassessed) at the time the taxpayer voluntarily tenders a partial payment that is accepted by the Service and the taxpayer provides specific written directions as to the application of the payment, the Service will apply the payment in accordance with those directions.

.02 If additional taxes, penalty, and interest for one or more taxable periods have been assessed against a taxpayer (or have been mutually agreed to as to the amount and liability but are unassessed) at the time the taxpayer voluntarily tenders a partial payment that is accepted by the Service and the taxpayer does not provide specific written directions as to the application of payment, the Service will apply the payment to periods in the order of priority that the Service determines will serve its best interest. The payment will be applied to satisfy the liability for successive periods in descending order of priority until the payment is absorbed. If the amount applied to a period is less than the liability for the period, the amount will be applied to tax, penalty, and interest, in that order, until the amount is absorbed.

.03 Payments made pursuant to the terms of offers in compromise (or offers in compromise and collateral agreements) that have been accepted by the Government in compromise of outstanding tax liabilities, in accordance with § 7122 of the Internal Revenue Code, will be applied as follows:

(1) If an offer in compromise and collateral agreement have been accepted by the Government in compromise of an outstanding liability and the offer in compromise and collateral agreement provide for the allocation of payments made pursuant thereto, payments made pursuant to the agreements will be applied by the Service in accordance with the terms of the agreements.

(2) In all other cases, the Service will apply payments, whether paid in installments or in a lump sum and whether paid pursuant to the offer or a collateral agreement, to periods in the order of priority that the Service determines will serve its best interest. The payment will be applied to satisfy the liability for successive periods in descending order of priority until the payment is absorbed. If the amount applied to a period is less than the liability for the period, the amount will be applied to tax, penalty, and interest, in that order, until the amount is absorbed.

.04 If any part of a payment is applied to interest under the rules set forth in this revenue procedure, the amount applied to interest is treated for purposes of § 163 of the Code as interest paid in the year in which the payment is made. Under § 163, interest paid or accrued in a taxable

year may be deducted in calculating taxable income for the year except to the extent such interest is personal interest as defined in § 163(h) and § 1.163–9T(b)(2) of the Income Tax Regulations or is otherwise disallowed under applicable provisions of the Internal Revenue Code and Income Tax Regulations."

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

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

"Mr. Speaker, can you note me down as in opposition. The previous speaker from Manoa just swayed my vote."

Representative Jordan rose in opposition to the measure and asked that the remarks of Representative Choy be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, in support. Mr. Speaker, before I continue I would like to borrow the screwdriver from the good Representative from Kauai over there because we have a tendency to screw things up when it comes to the taxes, and we just need an additional tool to help unscrew things. And this is a situation, Mr. Speaker, where we just need to add a broader diversity of tools to our taxpayers out there, to give them the opportunity to best address the situation.

"As was mentioned, those tools are available. There's no wrong or there's no harm with broadening the toolset that taxpayers may have to assist them in, especially given this time of year and particularly sensitive to the taxes that people have to pay. So, Mr. Speaker, this is just one of those additional tools that will allow the people of Hawaii to better address and meet the needs, as they see fit.

"So for those reasons, Mr. Speaker, I'm definitely supportive of assisting our regular folks out there. Give them a few extra tools to help them out. For those reasons, I'm supportive."

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

"Thank you, Mr. Speaker. In opposition. A few comments. I concur with the previous speaker a lot, except this bill narrows the toolset. It takes away the screwdriver, Mr. Speaker, and leaves you with just the screw. Thank you very much."

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

"Thank you. In support. I just want to briefly say that this measure actually came from one of the taxpayers that this is purported not to help, according to some of my colleagues. And he suggested that this would help him, in fact. I'd also like to note for the Members edification that a similar measure, the exact same measure actually, was passed out of the Senate in 2009, Senate Bill 76.

"In their committee report, the Ways & Means Committee notes that, 'Your Committee finds that the application of a partial payment to interest, penalties, and principal, in equal amounts, will alleviate the burden on taxpayers who are making these payments. Your Committee believes that the benefit to taxpayers is of particular importance during this economic crisis.'

"Mr. Speaker, while the state is not in the same economic crisis that it was in 2009, there are still many taxpayers that are trying to rebuild and to dig out from the burden that they sort of got covered in at that time, and they're still trying to make up some of those payments. This measure doesn't reduce the amount of taxes that they would owe, it simply helps them pay their debt faster by reducing the interest they will pay in the long run.

"That said, this measure is a work in progress. In subsequent drafts it may be wiser to consider some of the IRS changes that are not in congruence with our current law, and that might be a better way to go. It was raised by the Department of Taxation and I certainly want to see the Senate consider that perhaps in the future. But as I said, I do want to stress that the Senate did pass this in 2009 under the understanding that this would help taxpayers. Thank you."

Representative Fale rose to respond, stating:

"Mr. Speaker, just a quick rebuttal. Yes, often enough when it comes into taxes, we were often more often than not left with the screw and not the screwdriver, Mr. Speaker. But just as a quick lesson as we've learned today, Mr. Speaker, that federal law does supersede our state law, and as the good Representative from Manoa clearly pointed out, that we have an awesome tax service Agency, the IRS, to assist us. And their rules and the tools that they afford us still supersede whatever it is we do with the state, Mr. Speaker. So I think that the toolset that the IRS so kindly gives us every year, Mr. Speaker, is still intact and would still apply."

Representative Choy rose to respond, stating:

"Thank you, Mr. Speaker. First of all, there are no CPAs in the Senate. And second, I don't want my good friend from Laie to screw himself into the ground anymore, but we need to conform, and we don't conform to the Internal Revenue Service. Thank you."

Representative Har rose in opposition to the measure and asked that the remarks of Representatives Choy and McKelvey be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Kawakami rose in opposition to the measure and asked that the remarks of Representatives Choy and McKelvey be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Cullen rose in opposition to the measure and asked that the remarks of Representatives Choy and McKelvey be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and H.B. No. 2370, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 27 ayes to 23 noes, with Representatives Aquino, Awana, Carroll, Choy, Cullen, Hanohano, Har, Ichiyama, Ing, Ito, Jordan, Kawakami, McKelvey, Morikawa, Onishi, Oshiro, Say, Takayama, Takumi, Tokioka, Tsuji, Yamane and Yamashita voting no, and with Representative Wooley being excused.

H.B. No. 2432, HD 1:

Representative Saiki moved that H.B. No. 2432, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I'd just like to declare a potential conflict. I have a deferred comp account. Thank you," and the Chair ruled, "no conflict."

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

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

"Mr. Speaker, ruling on a conflict of interest. I also have a deferred comp account," and the Chair ruled, "no conflict."

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

"Potential conflict of interest. I also have a deferred comp," and the Chair ruled, "no conflict."

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

"Mr. Speaker, same request. I have a deferred comp plan. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, potential conflict of interest. I also have a deferred comp plan. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, same request. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and H.B. No. 2432, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 2464, HD 1:

Representative Saiki moved that H.B. No. 2464, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 2464, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

At 10:12 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1719, HD 1
H.B. No. 1870, HD 1
H.B. No. 1893, HD 1
H.B. No. 2370, HD 1
H.B. No. 2432, HD 1
H.B. No. 2464, HD 1

H.B. No. 2507, HD 1:

Representative Saiki moved that H.B. No. 2507, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise in opposition to the Marketplace Fairness Act, but I want to say that it's the 13th hour of our debate and I'm pleased to announce that there's been a negotiated settlement between the honorable Member from Manoa and myself. Thank you, Mr. Speaker."

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

Representative Choy's written remarks are as follows:

"Mr. Speaker, I rise with RESERVATIONS.

"This bill provides an alternative for the states that has not adopted the Streamline Sales Tax Agreement, should the Marketplace Fairness tax bill pass the United States Congress.

"My reservations lie as follows:

1. This bill is aspirational and premature. We do not know what the final act would look like as it goes through the markup process.
2. The federal bill does not recognize that Hawaii does not have a Sales Tax. I have sent suggested language to Senator Schatz for the markup of this bill.
3. In my opinion, it would be easier to overturn *Quill vs. North Dakota* as mentioned in the decision by the United States Supreme Court.

"It is for these reasons I stand with RESERVATIONS."

At 10:13 o'clock p.m., Representative Hashem requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:14 o'clock p.m.

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

The motion was put to vote by the Chair and carried, H.B. No. 2507, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MARKETPLACE FAIRNESS," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Fale, Fukumoto, Johanson, Matsumoto, McDermott, McKelvey, Thielen and Ward voting no, and with Representative Wooley being excused.

H.B. No. 2554, HD 1:

Representative Saiki moved that H.B. No. 2554, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"In opposition. Mr. Speaker, this bill paves the way for OHA to build two, possibly even more, residential towers in Kakaako Makai. While I fully support the \$200 million settlement that OHA feels compelled to achieve through these means, I do not support this measure and the method that the settlement would be provided to OHA.

"I believe the Legislature was wise six years ago to enact a prohibition against residential developments in Kakaako Makai. I believe the reasons are as valid now as they were then. Residential developments will foreclose the opportunity for public enjoyment of one of the last open areas in Kakaako Makai, and I believe that with the proliferation of developments *mauka* of Ala Moana Boulevard, that it's all the more reason that we need to preserve whatever open space we have in Kakaako Makai.

"Therefore, I will oppose this measure and I hope that our rejection of this measure will enable more time and opportunity for the state and OHA to explore alternative means of reaching their financial settlement. Thank you very much."

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

"Mr. Speaker, I'll be voting against this measure. I think back in 2006 we made the right policy call. I think this Body, as well as the Senate, to draw a line on Ala Moana Boulevard, *makai*, towards the ocean, no residential. At that time we were looking at, I think Alexander and Baldwin, A&B, was looking to develop several high rises on their parcels on the *makai* side of Ala Moana Boulevard.

"I think at that time, we were approached by a similar group of folks who wanted to preserve the open space for public purposes, public use,

public enjoyment in perpetuity. They came with red shirts and they rallied around and they brought the community together, and I think we made the right decision at that time. It wasn't popular at that time, Mr. Speaker. Let me assure you that some of our friends who were involved in the construction industry as well as in the land development industry who were looking to develop their properties, as currently entitled, were very upset with what we were doing. It was very controversial back then. But even now, I think we made the right policy choice.

"My only reservations I do have, and I'll state that, is that this pertains to the Office on Hawaii Affairs. I can't speak for the trustees, but I know that in 2012 when I was here, I did sit down with some of the trustees and the key legal counsel to the Office of Hawaiian Affairs trustees. Whether or not they were sure that they wanted us to go ahead with the settlement as proposed by the Abercrombie Administration to allow for them to acquire those 30-some-odd acres in Kakaako, under the current regulatory scheme and under the current land use and under the current HCDA jurisdiction rules and regulations, knowing the limitations that were opposed upon those lands back in 2006. And they assured me that no, they wanted us to move this bill through quickly or the settlement quickly and not allow for further time and discussion in a conference committee, but to move it out. The effective date was so called, clean.

"And I repeatedly asked them that, I repeatedly asked them that, if they wanted to have more time in the legislative session, so that they could have those discussions regarding the entitlements, what could or could not be done. And repeatedly, repeatedly they came to me saying, 'No, Representative Oshiro. It's fine. Please help us. We want to move forward with this settlement. It's so important to our people, our beneficiaries.' So with those assurances, I supported that settlement.

"But before that, Mr. Speaker, in 2006, again, we made the right policy call. That for all of the people of Hawaii, we would keep the last remaining shoreline in Honolulu proper between the harbor area, all the way out to Magic Island, to Waikiki, Keehi, for the people of Hawaii to enjoy.

"There is a date of July 1, 2030, and so there might be an opportunity as alluded to by the prior speaker to maybe have the Office of Hawaiian Affairs come back in for some other kind of accommodation. Given what they know today and what we know today, regarding what can and cannot be done with those lands, and the fiduciary duty that the trustees have to their beneficiaries. Thank you."

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

"Mr. Speaker, I'm opposed to this. I agree with the previous speakers that we, at the Legislature, have a fiduciary responsibility, but also we have many other responsibilities that go far beyond fiduciary, and the burden of the Office of Hawaiian Affairs is to settle their own fiduciary responsibilities, perhaps more narrowly than we do. We should look to the long term future and seek the wellbeing of all the citizens of Hawaii. Thank you."

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

Representative Say's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 2554, HD 1 relating to Hawaii Community Development Authority. This measure will grant OHA to conduct public hearings on lands controlled by OHA and allow for housing to occur in Kakaako Makai lands.

"In 2006 the Legislature passed ACT 317 to prohibit any residential housing in the *makai*/ocean side of Ala Moana Boulevard.

"Chapter 206 E –Prohibitions. Anything contained in this chapter to the contrary notwithstanding, the authority is prohibited from:

- (1) Selling or otherwise assigning the fee simple interest in any lands in the Kakaako community development district to which the authority in its corporate capacity holds title, except with respect to:

- (A) Utility easements;
- (B) Remnants as defined in section 171-52;
- (C) Grants to any state or county department or agency; or
- (D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or

(2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district *makai* of Ala Moana boulevard and between Kewalo Basin and the foreign trade zone.

"And so with the support of local grassroots organizations such as 'Save Kakaako' I am opposed to repealing ACT 317 and any proposed housing."

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

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

"*Mahalo ho'omalū 'ōlelo.* Thank you, Mr. Speaker. *Kako'o*, in support. It's only because when this was negotiated in 2012, I wasn't here in 2006, so I didn't know what was settled between the Senate and the House being that there was no residential, in that Kakaako Makai. And when this issue was negotiated, I had the visit from our *kia'āina*, our Governor. Nothing was said about no development in Kakaako Makai. Had visits from the AG's Office, nothing mentioned about the restrictions there in Kakaako Makai.

"Also, the attorneys that were involved, they didn't divulge all of this information. It was after the fact when the bill got passed, then the Senate had a bill for entitlements. And already in the House we had passed out the bill in the agreement of the \$200 million. And I kept asking the questions to these people that came to ask me for their support, because my *na'au* told me it was a bad deal. It wasn't in the best interest for all of our beneficiaries, especially when I have a lot of beneficiaries on other islands, Hawaii Island, Moku o Keawe, Maui, Piilani, Kanaloa, Kahoolawe, Lanai, Molokai, Kauai, and some Niihau, since they do pay taxes too and they are beneficiaries, because most of the people living there are of the blood.

"So this issue that comes up now, it comes up after the fact and it presents a really troubling issue right now, especially for me as a native Hawaiian. And trying to make sure our people, our native Hawaiians, are having their interests served for the betterment of all Hawaiians and all of the people of the State of Hawaii. Because it still has been, like you said, discussed in 2006, and then 2012 we have the new Governor, the new *kia'āina* it's presently now, and he's trying to make a statement of helping Hawaiians, and the former *kia'āina* also did the same thing by moving the DHHL new building.

"For me, even if I do support it, it's only because this is the vehicle we have to work with, and hopefully we will be able to fix it through a better negotiation and have a better position for native Hawaiians to look forward to a better future, because I know for a fact the lands are not worth \$200 million.

"Those were the questions that I did ask a lot of the people that came to see me. And they all knew from the beginning that I wasn't on board with this, because I am the true believer of who I am, and I have a lot of *pilina* and relationships with our *'āina, na po'e*, our people, and the *waiwai 'o Hawaii*, and the resources of Hawaii.

"So, I still stand in support, however, hopefully this vehicle can be the negotiating vehicle that will find that *pane mai*, the solution, for the betterment of our Hawaiian people. *Mahalo.*"

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

"In support. I want to adopt the words of the previous speaker. Thank you. I also want to note that the concerns raised by the Representative from Pearl City I think are very valid. If residential development is not in the desire of the community, then yes, this negotiation comes back on the table and maybe Hawaiians can finally get what they were promised in a

full \$200 million settlement, which may be possible given the state's fiscal situation. Thank you."

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

"Mr. Speaker, in support. Although this measure is very broad currently as this is drafted, there is another measure that has come over to the House from the Senate, Senate Bill 3122, which kind of hones it down to maybe three parcels. And I think that's something that's a little bit more palatable. Personally, I think I'm more palatable to maybe just two parcels. But that's for a longer discussion.

"Mr. Speaker, currently this Body only gives OHA the monies from the 20 percent revenues driven off of public lands, and that's \$15.1 million a year, which hasn't been changed in many years. And it was just arbitrarily picked as that figure many, many moons ago. And that's the only money they have to operate. Now, OHA provides grants, OHA provides support, OHA provides training. OHA has just started building Kana'iolowalu, which is very controversial in some people's minds. But you've got to understand, this is the only entity that we have right now.

"Personally, I'm not a beneficiary of OHA, although OHA does provide benefits to non-Hawaiians, when you're talking about providing educational components or many activities in many of our communities. You heard the trustees come here and talk about their new priorities regarding native Hawaiian health and the justice reinvestment programs. So, I am very open. We as a Body allowed them to have these properties. I know they're going to move forward with commercial development over there. And as we've been saying all day long, how do we make it work? We need residential components to make commercial work also.

"This is not the end all, be all. This currently has a 2030 date on here. That's why I'm supporting it. Again, the mission of our state, we are supposed to be taking care of the native host culture and the populace. Many people tend to forget that. We're holding their lands, and we're holding their money. And unfortunately, I feel we're holding them hostage. Those are harsh words, Mr. Speaker. But I truly believe we need to start paying attention to that.

"And I know there were agreements prior to me coming here. There were many discussions when this agreement happened in 2012. There were also discussions on the Senate side to allow some residential development over there. And everybody said put that on the side because we didn't want to lose the deal. Because this is finally something that had been negotiated upon. Mr. Speaker, I could probably talk on this all evening. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise with slight reservations. When I met with the Office of Hawaiian Affairs they did point out something that I wanted to bring to the attention of my fellow colleagues. That was in 2012, Senate Bill 2783 that was the vehicle to move forward the transfer of the land located in Kakaako Makai to the Office of Hawaiian Affairs as a settlement.

"In it, in the standing committee report, it says, 'The property identified in this measure is virtually contiguous, suited for master planning, and located in an area of Honolulu that is already experiencing significant redevelopment. Your Committees recognize the value of these attributes and believe that property values could be enhanced by certain entitlements that, while not specifically provided for in this measure, could be obtained at a future date.'

"The reason I believe we're here today is because it was implied that they would come to get entitlements at a future date. My understanding is they hired a consultant to do a master plan of that land, and they came back and said for you to get the full \$200 million value worth of the land, you will have to go get entitlements, because as it is today, it wouldn't be worth \$200 million without the entitlements. So I believe what they're doing is the right thing.

"However, having said that, just like this says, you master plan, you think about it, you get community input, you get input from people about what's the right thing to do. I was actually kind of surprised that they felt residential development would be the highest and best use. Clearly, there might be a lot of money for office buildings. I suggested that if you were to look at other buildings around the United States you could have retail, and you could service the Hawaiian community with a lot of services that are needed, office space that's needed, programs that might be needed, and then maybe you do residential on top of it. But the thing is, I still was kind of surprised that they were totally focused on residential when they spoke to me.

"But having said that, I do think that the Legislature, when we passed the measure that eventually became law, we gave the impression that they would be coming back for entitlement. So I wanted to point it out. Thank you."

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

"Thank you very much. I fully support the measure. I believe we have a fiduciary responsibility. However, giving you a little history on this, during my tenure as Speaker in the '90s, we did provide a settlement with OHA then for approximately \$115 million, and one of the conditions was, of course, then the 20 percent would cease. However, we did provide approximately \$15 million a year in spite of the legislation being repealed.

"Now they have come across and there has been agreement again with the respective parties, the Governor and the Legislature, to provide additional settlement and revenues, approximately \$200 million. So when we look at the properties, they may have fallen short in their negotiation, but I still believe that we have a fiduciary responsibility to make that \$200 million good. Thank you very much."

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

"Thank you, Mr. Speaker. In support with some slight reservations. If I could have permission to insert comments, and also additional comments, if I may speak. You know I was here since 2005, so I was here when the people came and asked that no development happen on the *makai* side. And as a Hawaiian, you don't want to see development occur, especially on the ocean side. So I did support no development.

"Now here we are today, fast forward. I supported OHA in 2012 in this \$200 million settlement. Part of that discussion was they were supposed to do their due diligence. And I understand that we do support the host culture. And I have a lot of respect for the Chair of our Hawaiian Affairs Committee because I hear her. As a former Chair of Hawaiian Affairs, you want to support the host culture. You're passionate about everything that comes forward and you try to raise all of the issues that may have come up 30 plus years before that.

"And so, I understand what she's saying is that she supports this, and I support it too because we do have a fiduciary responsibility, but if we can move this issue forward and continue the discussion and hopefully we can find that balance, so that through the renegotiation, through looking at policy, that we could do the right thing.

"Also, the Chair of Water & Land, I also respect the comments that she made in regards to coming back for entitlements. Yes, without the entitlements, that value doesn't go up. So, like her, I also felt when supporting OHA in this settlement that they were coming back as well.

"So I just wanted to say that today and also let you know that it's not something that is easy, but just think of it. If we could find that balance, how we can have that win-win situation so that we all can enjoy the *makai* but also fulfill our fiduciary responsibility to the host culture, we could live in a better place in Hawaii. Thank you."

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of the intent of HB 2554, HD 1, which is to increase available housing in the Kaka'ako area. However, I have

reservations about the possible effects of this bill. Allowing the Hawaii Community Development Authority (HCDA) to approve residential development on lands owned by the Office of Hawaiian Affairs (OHA), specifically the Kaka'ako Makai area, is not in tune with the interests of the native Hawaiian community. OHA is supposed to utilize ceded lands for the betterment of the native Hawaiian community. I also should add that, the ceded land controlled by OHA is being held in trust for the native Hawaiian people and for OHA to go against this dynamic would be contrary to its mission.

"My fear is that this measure will not only negatively impact the native Hawaiian community in the Kaka'ako area, but the entire native Hawaiian community as a whole, resulting in more financial losses for native Hawaiians due to further mismanagement of crown lands.

"There is a reason for the 2006 prohibition of residential development in Kaka'ako Makai. It is not just because of the intense community opposition, it also has a lot to do with the fact that it is one of the last open public spaces along the south shore and it is for those reasons, Mr. Speaker, that I have reservations in regards to this measure.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to note my reservations on HB 2554. Thank you."

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

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

"Mr. Speaker, in support. Minor, minor reservations, and I'll put it this way, the way I put it in the Finance Committee. The spirit of the moment, when it was settled in 2012 with the \$200 million, there were many, many people in this very room who were there at the time who felt, let's put a residential entitlement in there already.

"So, I really appreciate the Representative from Waimea reminding us that it actually went into the committee report, because there was a real spirit of let's do it, to really make good on the \$200 million. In fact, even maybe with a little bit of a tipping point on top of that.

"So, Mr. Speaker, this is nothing new, but it's something that I think for the sake of a clean bill, the \$200 million never had the entitlements in it. But the intention, as was stated, was clearly there, so there shouldn't be any surprises on this Floor. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you. In support. Just quickly. Considering the way the property, why and how the property was transferred, it seems to me like OHA, it just seems unfortunate that we not be giving, it's almost not a point of us giving them anything. It seems to me their right would be to do more or less what they wanted to it unless it had some seriously deleterious effect on surrounding properties. But it seems like a lot of latitude would be in their power as it stands now. Thanks."

Representative Oshiro rose to respond, stating:

"Mr. Speaker, I just want a couple of things. I ask permission to submit further written comments. But more important, to have the words of the Chair of the Ocean, Marine Resources, & Hawaiian Affairs Committee as my very own. She's a dear friend, and I heard her, and we've had discussions about this important measure.

"Still in opposition. Let me explain a little bit. Given what's going on with other bills regarding the Hawaii Community Development Authority, which is also referenced in this same bill here. Whatever we do with the other bills, and what we do with this bill, we can't escape the fact that they're tied together. We're talking about the authority here and the jurisdiction that currently exists. The only way you can give the Office of Hawaiian Affairs free and clear entitlements, as any other land owner in the

area, would be to repeal those provisions that currently restrict what can be done. And that's what we did back in 2006. So let's keep that in mind.

"But I understand the cries for justice, and I understand the cries of how we can maybe remediate what was done two years ago in 2012 and try and find some common ground with those who came in 2006 and asked us to set the policy regarding *makai*, in space for all people on the waterfront, the last remaining waterfront in Honolulu. And I hear it loud and clear.

"I think the Representative from Hana, and I also adopt her words as my own, expressed the conflict I think we have, if you really think about it, a very difficult one. It's not easy. But I rely upon the Chair of Ocean, Marine Resources, & Hawaiian Affairs to provide further guidance as this bill goes over to the Senate, and maybe as she examines the content of Senate Bill 3122. I think based upon those assurances, I'll be going with reservations. I'll go reservations. I have that trust and confidence in her. Thank you."

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of this bill, but with strong reservations. The bill, as presently drafted, would require the Office of Hawaiian Affairs (OHA) to conduct a public hearing on any plan or proposal for any residential development in Kakaako on lands owned by OHA prior to submission of the plan or proposal to the Hawaii Community Development Authority (HCDA).

"At issue are some 10 parcels situated in Kakaako Makai that were received by OHA from the state as part of the 2012 settlement on revenues owed to OHA that were generated from the state's use of ceded lands.

"Currently, HCDA is prohibited from approving any plan or proposal for any residential development in that portion of the Kakaako Community Development District *makai* of Ala Moana Boulevard and between Kewalo Basin and the foreign trade zone pursuant to Section 206E-31.5, Hawaii Revised Statutes. The 10 parcels currently transferred to the OHA are located *makai* of Ala Moana Boulevard and between Kewalo Basin and the foreign trade zone.

"In the mid 2000s, the people of this state learned that Alexander and Baldwin (A&B) proposed the development of lands situated in Kakaako *makai* of Ala Moana Boulevard between Kewalo Basin and the Foreign Trade Zone. In addition to residential high rises, A&B planned commercial development to be incorporated with the recently constructed Kakaako park to build a modern urban community for the 21st century. This was in response to a Request for Proposal issued by the HCDA.

"The public was outraged and this Legislature acted by approving House Bill No. 2555, Conference Draft 1, which was enacted as Act 317, Session Laws of Hawaii 2006. Among other things, this law prohibited the Hawaii Community Development Authority from approving any plan or residential development *makai* of Ala Moana Boulevard between Kewalo Basin and the Foreign Trade Zone.

"At the time, your Committee on Water, Land, and Ocean Resources issued the following findings in Standing Committee Report No. 572-06:

"Your Committee recognizes the importance of proper planning and development of the [Kakaako] District. Reviewing the historical development of the District, your Committee understands the perception that Kakaako Makai and Kakaako Mauka are separate areas; however, they are not separate, but make up the entirety of the District where people work, live, learn, and play. Kakaako Mauka with its existing high rise residential projects was designed to be the residential portion of the District, and Kakaako Makai was designed to be the learning and playing area of the District with open space and learning facilities, like parks and the University of Hawaii medical school.

"Your Committee also recognizes the importance of protecting our unique and fragile environment and to properly manage our natural resources to encourage the beneficial use and enjoyment by our residents.

"Further, your Committee recognizes the need for additional housing. Your Committee understands that the sale of leasehold residential projects will generate funds for the State that can be used to further develop the District and other public purposes, such as affordable housing within and outside of the District. Some of your Committee members harbor a strong belief that the State should utilize more of its lands to generate funds for such public purposes while still providing for required amenities including parks and open space. Further, residents living in Kakaako Makai may energize the area during the evening hours and contribute to the security of the area."

"These same findings are true today as they were eight years ago. And today, we face the same conundrum that we faced eight years ago – what do we do with Kakaako Makai?"

"And exacerbating the complexity of the problem, OHA may have a fiduciary responsibility to seek the highest and best use of its resources for the betterment of native Hawaiians. Wouldn't residential development be the highest and best use of their Kakaako Makai properties?"

"At some point, this Legislature will need to decide whether to allow HCDA to permit residential development in Kakaako Makai, and to the extent that this bill will serve as a vehicle for more discussion, I am in support. But as noted in his remarks on the 'Green Belt' envisioned by Governor Waihee in the 1980s, Speaker Emeritus is correct to remind us that we all agreed in 2005 that the area known as Kakaako Makai would be preserved from residential development. And yes, when OHA agreed to the settlement with the state in 2012, they knew that the lands in Kakaako Makai were prohibited from developing residential projects. But how else would OHA be able to realistically generate sufficient income from the property to meet its fiduciary responsibilities?"

"Mr. Speaker, I am very much torn by this bill. I have always supported the public's access to our shorelines, and as an avid surfer I know firsthand how important Kakaako Makai is as a recreational area for all our people. But I also see the plight of native Hawaiians and how much good could come from OHA fully utilizing these parcels to fund desperately needed programs.

"I was prepared to vote no on this bill, but what caused me to vote yes with serious reservations was the remarks from my colleague the Chair of your Committee on Ocean, Marine Resources, & Hawaiian Affairs. She assured us all that there is still time to forge consensus on this issue in a manner that honors not only native Hawaiians, but all of our citizens. On such a divisive issue, it is consensus and leadership that is needed.

"Lastly, I would like to mention for the record the concerns raised by the Attorney General on whether this bill would constitute a 'special' bill and raise the 'superferry' specter once again. It is my hope that should a bill be approved, that extra care is given to ensuring that the measure pass constitutional muster and not be subject to collateral attack.

"For these reasons, I will this day be voting with reservations. However, as I was an active House participant in both 2006 and 2012 Sessions, I have many questions that need honest and truthful answers, and will reserve my final judgment on this important bill."

Representative Say rose to respond, stating:

"Mr. Speaker, in opposition still. But let me just share with the Members of this House, Mr. Speaker, the historical perspective of how we came about preventing residential. The authority, with the consent of the previous Governor, was given the opportunity to develop the *makai* lands for residential. I believe in their request for proposals, they had two or three major developers who are interested. And in the end, in the end it was one of our local companies here that won that particular bid or project.

"For the Members of the House, this is totally different. Because why? On the *makai* side it was public lands. On the *mauka* side, a great deal of it is private lands. So, in 2006 the Save Kewalo organization came out in force saying, 'No development on the *makai* side.' And with the

Legislature here listening to the groups and organizations who opposed the residential, the State Legislature agreed.

"The concern I have, Mr. Speaker, is that in the provisions of the bill in its original draft was just to have more community hearings or meetings first. But more importantly I get scared, because in the end if there is a provision for residential, what type of residential now? This afternoon I've been fighting for the low and moderate income. Will the Office of Hawaiian Affairs develop and build residential for low and moderate? You will not get the highest and best use doing a project for low and moderate income or rentals. Think about it.

"At the Committee hearing I had to state for the record. I truly believe in the State Supreme Court decision in PASH, Public Access Shoreline of Hawaii, where all of us and the future generations will have the opportunity and access to our shorelines. I recall Governor Waihee when he pushed his green belt. The green belt was the shorelines from Ala Moana Park to Kewalo to Kakaako. I'm very proud of that vision, Mr. Speaker. And that's why the Legislature took it upon themselves in 2006 to stop the residential.

"That's it. Okay, I know everyone's tired, but I'm just giving you folks a historical perspective of what happened. But in the meantime, I truly hope that in the end the conference draft will be something that will be a win-win, but more importantly a win-win for the Hawaiian community and the general public at large also. Thank you."

The motion was put to vote by the Chair and carried, H.B. No. 2554, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Belatti, Choy, Kobayashi, McKelvey, Ohno, Say, Takai and Takayama voting no, and with Representative Wooley being excused.

H.B. No. 2135, HD 1:

Representative Saiki moved that H.B. No. 2135, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Choy's written remarks are as follows:

"Mr. Speaker, with STRONG RESERVATIONS on HB 2135, HD 1, which makes our tax system conform to the streamlined sales tax agreement.

"My reservation is not on the concept of collecting taxes on internet sales, it is about the method of collection.

"Approximately 24 states that impose a sales tax have joined this initiative. It has had dismal results. The last statistics I read, showed a collection of about \$300 million over a two year period. That's about \$6 million per state per year.

"Now you might say \$6 million is better than a poke in the eye. But here in Hawaii we have a problem; the problem is we don't have a sales tax. Mr. Speaker, a sales tax is imposed upon the buyer as an ad valorem tax. We have a General Excise Tax that is imposed upon the business.

"Now the simple analysis could be let's change 'um, let's change to a sales tax. And if that is the approach I could go along with it.

"If some brave soul in this Chamber is willing to explain to the people that our sales tax is now 11 or 12 percent and we are doing away with our 4 percent General Excise Tax. I think we would have a bigger revolt than not letting the people vote.

"If we change our General Excise Tax to a sales tax scheme then, of course, we should join the streamlined sales tax project. If we don't, the

state tax department is saying that it will cost 10-15 million dollars to implement the streamline sales tax agreement.

"But Mr. Speaker, what this bill does is not change the GET to a sales tax, what it does is disguise the GET to make it look like a sales tax.

"So how hard is this to do, Mr. Speaker, look at this bill it is 158 pages long. And I did not go through every line to see if it was written correctly, I hope the introducers did.

"The bottom line is this taxing scheme will not work for a state that does not have a sales tax.

"I would like to insert the testimony of Tax Bill Service of the Tax Foundation of Hawaii which details the complexities of this bill.

"I would also like to shout out to Brother Lowell Kalapa. I really miss you!

"Thank you, Mr. Speaker."

Representative Choy also submitted the following:

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Streamlined sales and use tax

BILL NUMBER: HB 2135

INTRODUCED BY: Mizuno

BRIEF SUMMARY: Adds a new chapter to the law to set out sections of HRS chapter 237 which establish transactions subject to the 0.5% general excise tax rate.

Adds a new chapter to the law to set out sections of HRS chapter 238 which establish transactions subject to the 0.5% use tax rate.

Adds a new chapter to the law to set out sections of HRS chapter 237 which establish transactions subject to the 0.15% general excise tax rate. The measure delineates provisions governing commissioned sellers of insurance to replace references to agents, general agents, subagents, or solicitors with the term "insurance producers."

Adds several new sections to HRS chapter 237 to establish sourcing rules to determine when a product or service is taxed, including telecommunication services. The measure delineates provisions defining "direct mail" and how the sourcing of direct mail transactions will be ascertained.

Adds a new section to HRS chapter 237 to allow a seller to take a deduction from taxable sales for bad debts.

Adds several sections to HRS chapter 255D to establish provisions relating to the determination of the proper general excise or use tax rates between different tax jurisdictions, rounding on tax computations, amnesty for registered sellers who pay, collect, or remit general excise or use taxes in accordance with the terms of the streamlined sales and use tax agreement, tax rate changes by a county, certified service provider, confidentiality of records, liability for uncollected tax and rate changes, and customer refund procedures.

Amends HRS sections 237-8.6 and 238.2.6 to prohibit a county to conduct an independent audit of sellers registered under the streamlined sales and use tax agreement.

Amends HRS section 237-24.3 to redefine the term "prosthetic device."

Establishes a committee to oversee the department of taxation's implementation, administration, and compliance of the streamlined sales and use tax agreement. The committee shall be administratively attached to the department of taxation. Requires the committee to hold meetings to carry out this act and serve as the state's official delegation to the streamlined sales and use tax governing board when establishing the state's criteria for compliance.

HB 2135 - Continued

Permits the department of taxation to seek technical assistance with legal professionals that have a background and practice in taxation. The legislative reference bureau shall assist the department of taxation or contractor in drafting any legislation.

This act shall take effect when the state becomes a party to the streamlined sales and use tax agreement; provided that: the amendments made to HRS section 237-24 by this act shall not be repealed when that section is reenacted on December 31, 2018, by Act 70, SLH 2009, as amended by Act 164, SLH 2013.

EFFECTIVE DATE: Upon approval as noted in the measure

STAFF COMMENTS: The Streamlined Sales Tax Project's (SSTP) Model Agreement and Act is a project undertaken with other states that is intended to simplify sales and use tax administration as it relates to multiple sales and use tax rates, definitions, and taxing jurisdictions.

Goals of the project include the establishment of a single sales tax rate per state, uniform definitions of sales and use tax terms, requiring states to administer any sales and use taxes, and a central electronic registration system to allow a seller to register to collect and remit sales and use taxes for all states.

At the national level, there appears to be a number of difficulties in the negotiations and unanimous agreement is far from reality. Before jumping on the bandwagon, lawmakers should exercise care because Hawaii does not have a sales tax as found in other states. Our general excise tax, while viewed by some as comparable to a sales tax, actually is a far cry from the retail sales tax found on the mainland.

The bill, as presently drafted, attempts to turn Hawaii's gross receipts tax imposed for the privilege of doing business in Hawaii into a retail sales tax with respect to where the tax is imposed. Much of the bill is devoted to separating the wholesale rate tax from the retail rate tax and then reworking where the tax is applied otherwise known as "sourcing." The general excise tax, as we know it today, would be radically changed to accommodate the format adopted by the SSTP.

What is not evident in the measure is that by participating in the SSTP, Hawaii businesses will be required to collect the sales taxes of other states when purchases are made by residents of that state. The cost of collecting, accounting, and remitting those taxes will add even more overhead costs to operating a business in Hawaii. So why is there such enthusiasm on the part of the legislature to participate in the SSTP? Lawmakers have been promised hundreds of millions of dollars that could be had if the state would just participate in the project. The suggestion came to the 2001-2003 Tax Review Commission on the recommendation of their consultant who was already an advocate of the project.

If Hawaii businesses have to operate in a different mode relating to collecting and remitting sales taxes, will lawmakers compensate businesses for undertaking the collection of other states' retail sales taxes? Indeed, the law being proposed in this measure is a hybrid of the current general excise tax law and a retail sales tax. It retains the two-tiered wholesale/retail system and keeps the tax on services as well as on business-to-business transactions. So the measure attempts to have the best of both worlds – to force other states to collect our general excise tax while retaining the pyramiding features of the general excise tax. This is a major change in the state's largest source of general fund revenues.

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Care should be taken in making this transition as it could alter not only the past interpretation of the general excise tax, but it may also have a major impact on the revenue producing capacity of the tax.

One of the key issues still under discussion among the members who have already signed on is "where" does the sale occur. For a number of the larger states like California, Illinois, and Texas that manufacture goods shipped to other states, the sourcing rules they favor are "origin" based rules, that is the tax that is imposed at the place from which the goods are shipped and not where the purchaser takes possession. Hawaii uses "destination sourcing" providing for taxation at the address to which the goods are delivered. It is this destination rule that causes the most problems for businesses as they must now deal with a plethora of rates depending on the number of states from which they receive orders. The SSTP theoretically sets up a mechanism to deal with those rates.

Again, a main area of concern is whether the states can afford the streamlined system itself. Given the promises that have been made and not delivered upon such as the software that is supposed to facilitate the collection and remittance of the various states' sales taxes, to the promise to pay the cost of funding the administrative structure of the governing board, it appears that the devil will be in the details. This proposal needs more discussion in the interim and further clarification as well as a discussion with taxpayers who must carry out the duty of the actual collection.

Not surprisingly, this is what the 2005-2007 Tax Review Commission recommended, that until the member states of the SSTP agreement come to a definitive conclusion, it is premature for Hawaii to jump on board.

The 2005 legislature had approved a measure to direct the department of taxation to identify issues that need to be resolved to effectuate the orderly enactment and operation of a streamlined sales and use tax based on the Streamlined Sales Tax Project's Model Agreement and Act. The act also repealed the streamlined sales and use tax advisory committee council which was to consult with the department of taxation on the implementation of the streamlined sales and use tax agreement in Hawaii. When this measure was sent to the governor, the governor vetoed it due to the repeal of the advisory council, unrealistic deadlines in the measure, and concerns of allowing a third party to access confidential tax return information. A special session of the legislature overrode the governor's veto and the measure passed as Act 3 of the Special Session of 2005.

In 2006 a bill that would adopt the streamlined sales tax agreement was introduced and nearly passed the legislature but for a small glitch in the closing moments of the session. This, despite the fact that the State Auditor had a consultant assess the revenue potential of participating in the project. Instead of the hundreds of millions of dollars the promoters of the project had promised, the consultant estimated that Hawaii would benefit at the very least by about \$10 million and at the most \$50 million.

At the same time, when the department of taxation was asked what it estimated it would cost the department to implement the project for Hawaii, the price tag was set at \$15 million. Thus, it came as no surprise that when the Tax Review Commission looked at the issue, the decision was a no-brainer: Hawaii would stand to gain about \$10 million in revenue, but it would cost the state \$15 million to implement. And that doesn't include the cost to businesses in Hawaii that would be required to collect the sales taxes of other states.

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So the Commission's advice to the legislature and administration was to wait. In its recommendation it was noted that "the largest states (by economic size) have failed to sign onto the project, jeopardizing the chances of becoming an effective vehicle for collecting the Use Tax. Until the Project shows greater promise of producing results, it is premature for Hawaii to incur the expense to join it."

The SSTP was formed in reaction to the 1992 case, *Quill Corp. v. North Dakota*, where the U.S. Supreme Court reaffirmed that the power of states to impose taxes on interstate commerce is limited by a "physical presence rule." As a result, national mail order sellers with no physical presence in Hawaii may sell to Hawaii customers without worrying about the Hawaii general excise tax. In such a situation the customer is legally required to pay use tax, but individuals with relatively small purchases almost never pay the tax – not only in Hawaii but in other states that impose a use tax.

The SSTP is a working group of revenue officials and experts with the stated purpose of bringing simplicity and uniformity to sales taxes in the United States. (The governance structure raises some questions of democratic accountability and whether SSTP receives or seeks genuine public input.) Member states must adopt reforms to align their tax codes with the SSTP. The hope is that simple and uniform sales tax statutes will allow the collection of interstate sales taxes without placing burdens on interstate commerce. If approved by the U.S. Congress, the SSTP's rules could displace the physical presence rules in *Quill*.

Simplicity and uniformity are both important goals, but the SSTP has, at best, mixed success in achieving them. There are nearly 8,000 sales taxing jurisdictions in the United States, each with their own bases and rates, and the enormous complexity involved in tracking borders and changes is a huge stumbling block to state efforts to impose taxes on online sales.

While the SSTP has made some progress on uniformity (they have succeeded, for instance, in a single accepted definition of "candy" – something everyone defined differently before), the SSTP appears to be giving up the effort on simplicity. At their New Orleans meeting in July 2008, for instance, the SSTP panel was asked if any effort was being made to reduce the number of sales taxing jurisdictions, and/or to align them with 5-digit zip codes. "No and no" were the short, but honest, answers.

Rather than requiring that states simplify before reaching out beyond their borders to tax out-of-state companies, the SSTP seems content to let states continue the status quo. One panelist noted that far from requiring substantial reforms, "States still get to do 99.99% of what they want to do" under the SSTP agreement. This demonstrates either disingenuousness or how little the SSTP recognizes that many existing sales taxes are in need of substantial reform in order to make meaningful progress toward uniformity and simplicity.

The SSTP already abandoned the notion of taxing like transactions alike when they adopted "destination sourcing" for online sales, but permitted states to adopt "origin sourcing" for intrastate sales. This, in effect, requires Internet companies to collect sales taxes based on where their customer is located, but allows brick-and-mortar stores to collect sales taxes based on where the store is located. In this way the SSTP prevents a level playing field between Internet businesses and brick-and-mortar businesses.

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Coupled with the SSTP's non-worry about reducing the number of jurisdictions (they spoke optimistically of providing maps of sales tax jurisdictions, having rejected even aligning jurisdictions with 9-digit zip codes), full implementation of the SSTP, at this time, without serious reforms, could result in a serious and inequitable burden on e-commerce.

Another recent example involves clothing taxes. The SSTP requires that all states have a uniform definition of clothing, and tax all of it (or none of it) at the same rate. Minnesota did so, but then imposed a "separate" fur tax on fur sales. Rather than recognizing this as an end-run around tax uniformity, the SSTP governing body upheld Minnesota's action.

The SSTP is attempting to persuade Congress to permit SSTP member states to begin collecting sales taxes on online purchases, premised on the belief that the SSTP's simplification and uniformity mission has been accomplished. The SSTP has not accomplished its mission. The SSTP should look again at serious simplification efforts before declaring itself a success and seeking to expand state taxing power.

States should be willing to adopt uniform definitions worked out by the SSTP so as to reduce transaction costs between state statutes. However, the ability of any state to collect sales tax on online transactions is wholly dependent on the willingness of other states to simplify their laws and adopt uniform definitions as well. It is also dependent on the creation of a working alternative to the physical presence standard that provides certainty and prevents multiple taxation. Neither the wholesale adoption nationwide of uniform sales tax statutes, nor the development of a working alternative that provides the certainty needed for long-term investment, are likely in the foreseeable future.

For these reasons, lawmakers and other states should understand that SSTP membership does not lead to a sudden influx of free tax money. The SSTP's goals are good ones, but their success is mixed at best, and whatever effect it has will not be seen in the short-term.

A few years ago, a similar measure was vetoed by the governor. In her veto message, she stated that the "bill is objectionable because it would abdicate the authority of the state to establish, administer, and change its general excise tax structure; grants amnesty to certain taxpayers, absolving them of the requirement to pay taxes due the state, and treats out-of-state vendors more favorably than in-state vendors." She further stated that in order to comply with the Streamline Sales and Use Tax Model Agreement and Act (SSUTA), the state and each county would have to establish a single tax rate and once the state participates in the SSUTA, the state must certify to a national governing board that the state's law complies with the SSUTA and may relinquish control over the state's ability to determine its own tax revenue collections. The governor also had concerns about the provision of the SSUTA requiring the state to pay out-of-state vendors for collecting Hawaii taxes since the taxes the state would be receiving would be reduced by the collection fee paid to the out-of-state vendor, thereby giving out-of-state vendors an unfair advantage since local businesses are not compensated for collecting and paying required taxes.

Finally, the most recent Tax Review Commission (2010-2013) concurred with its consultant, Dr. William Fox, that enactment of federal legislation is the only viable means to provide states to collect on remote sales. Thus, it recommended that the "state urge the Congressional delegation to support and enact federal legislation to address" the litigation and "address the 'nexus' question would allow states to tax e-commerce sales and collect needed revenue."

Digested 2/18/14

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

"Opposition, Mr. Speaker. I just want to clarify, although I'm a fan of nexus, I'm not a fan of this. So just, boo. Thank you very much."

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

Representative Ward rose and asked that the Clerk record a no vote for him, 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 Fukumoto rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. In opposition and brief comments because I didn't get to speak last time. I just wanted to say, we've heard a lot about businesses supporting this bill, but it's because they're desperate for anything that will help them survive better in the state's unfriendly business climate. But collecting a tax on internet purchases isn't going to make them more competitive.

"People don't generally purchase online just to avoid paying taxes. People are purchasing online either due to an extraordinary difference in price that won't be compensated for by the application of a GET, or because they're looking for a wide selection of goods, which because we live in an island state can't be matched in brick and mortar stores just due to basic economics.

"If we want to help businesses, we need real changes. To argue that applying a GET to internet purchases will somehow keep Price Busters and other businesses in our state solvent is just giving false hope to consumers and business owners. So to continue to claim that we're doing this to help business would be incorrect and is misleading. Thank you, Mr. Speaker."

Representative Yamashita 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, H.B. No. 2135, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 41 ayes to 9 noes, with Representatives Evans, Fale, Fukumoto, Johanson, Matsumoto, McDermott, McKelvey, Thielens and Ward voting no, and with Representative Wooley being excused.

H.B. No. 2000, HD 1:

Representative Saiki moved that H.B. No. 2000, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

The motion was put to vote by the Chair and carried, H.B. No. 2000, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX RELIEF," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

H.B. No. 1849, HD 1:

Representative Saiki moved that H.B. No. 1849, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, in opposition. I have been waiting for 31 pages for this bill. I'd like to first remind the Members that this measure would decrease taxes on cigars. According to the National Institutes of Health, cigar smoke is possibly more toxic than cigarettes because the smoke has higher levels of cancer causing substances. So to borrow a phrase from my predecessor, the tobacco advocate from Manoa should probably reconsider this effort to make smoking easier. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, I'm in opposition. Very briefly, lower taxes on cigarettes encourages more smoking. Tobacco is the leading preventable cause of death, disease and disability. State of Hawaii of course pays for a lot of healthcare, especially through our employees, retirees, and Medicaid.

"Number two, lower taxes such as this decrease state revenues. The federal government lost approximately \$1 billion in two years because of a change in tobacco taxes on the federal level.

"Number three, this loss of monies on the federal level was because of very clever and creative use in taking advantage of the tax changes that were made at that time. These included making small cigarettes into big cigarettes by, among other things, wetting them down with clay akin to kitty litter.

"And fourthly, this bill does not specifically benefit Hawaii cigar businesses. Rather, it benefits all producers, sellers, manufacturers of large cigars, regardless of origin. Thank you."

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

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

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

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in opposition to this measure.

"At the heart of this issue, Mr. Speaker, is the health and well-being of our people. Tobacco use remains the single most preventable cause of death in the world. It is one of the leading causes of lung cancer, heart disease, and other chronic health conditions. Yet in this measure, Mr. Speaker, we are supporting it. Why then, Mr. Speaker, are we trying to carve out a tax break for a single tobacco product?

"Mr. Speaker, Hawaii is considered one of the healthiest states in the nation. We should be proud of this designation, because it did not occur overnight. A large part of this designation is attributed to our policies around tobacco use. We currently have one of the highest excise taxes on cigarettes and other tobacco products. We have a smoke-free workplace law that protects employees, as well as customers, from the dangers of second-hand smoke. We have funded tobacco cessation and control programs to help those individuals who want to quit using tobacco. And we have taken steps to restrict the sales of tobacco products near schools to protect our youth from this deadly product.

"Supporters of this measure, Mr. Speaker, tout it as a boost for agricultural and economic enterprises. Over the last decade this Legislature has made it a priority to encourage farming for the purpose of increasing locally grown food to support sustainability and food security. Let me be clear, Mr. Speaker, tobacco does not accomplish this goal. Tobacco plants cannot feed our families. Tobacco plants cannot feed our livestock. Tobacco plants cannot provide food security. Tobacco plants are grown for one purpose alone, to create tobacco products like cigars. For this reason, Mr. Speaker, I have no problems supporting the cultivation of taro, corn, and other food sources. I cannot, however, give the same support to tobacco.

"Supporters of this measure claim that it will make Hawaii cigar sales competitive with internet cigar sales; therefore a significant tax break is warranted. Mr. Speaker, there are hundreds of small business in our state that lose sales every day to internet retailers. Cigars are not unique. But instead of providing solutions for all small businesses, this bill is helping a single niche sector of business.

"Mr. Speaker, let's clear the air. Our state tobacco control policies are focused on the act of using tobacco, not on the individuals who use them. If we are truly trying to reduce the burden of tobacco use in our communities, we should not succumb to arguments over a tobacco user's age, income, gender, residency, or even the frequency of use. They are irrelevant to promoting strong health policies. Tobacco, after all, is still tobacco, Mr. Speaker.

"Finally, Mr. Speaker, I took an unprecedented approach to tobacco control this year by introducing a bill to prohibit the sale of tobacco products in the state. My hope was to generate an honest and frank discussion on how state government taxes tobacco while simultaneously advocating the cessation of use by Hawaii's citizens. How can we continue to reconcile the state government's receipt of over \$130 million a year and the \$30 million or so in expenditure of funds for tobacco cessation and use prevention programs? However, that measure, House Bill No. 2110, failed to even receive a hearing by your Committee on Health and cannot be acted upon during the remainder of the 2014 Session.

"If the Legislature is committed to improve the health of its people, we need to take bold steps. I believe proposals of that nature take us forward to achieve proactive health policies for our state. This proposal, however, is taking us backwards. Let's show the people of Hawaii that we will continue to only move forward. I urge my colleagues to take a stand for public health by not supporting this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, with reservations. I would like to note that for years now, we've tried to address this issue of fairness in taxing tobacco products. And it was the cigar industry, when we were actually looking at addressing tobacco, wet tobacco, dip tax increase, the several times we increased cigarette tax increase, cigars did not go up accordingly.

"So this measure, Mr. Speaker, my concern is that it will actually reduce the amount of tax associated with cigars and may even then make it much more affordable and accessible for flavored cigars, which have been found to attract and be targeting our young children. Thank you."

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

"Thank you, Mr. Speaker. The illustrious words of the two speakers from Mililani have moved me to vote with reservations."

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

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

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

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

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1849, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 36 ayes to 14 noes, with Representatives Fukumoto, Hanohano, Har, Ing, Ito, Johanson, Kobayashi, Matsumoto, Ohno, Oshiro, Takayama, Takumi, Thielen and Ward voting no, and with Representative Wooley being excused.

At 10:54 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 2507, HD 1
H.B. No. 2554, HD 1
H.B. No. 2135, HD 1
H.B. No. 2000, HD 1
H.B. No. 1849, HD 1

At 10:54 o'clock p.m., Representative Har requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened 10:54 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 48 and 49) and concurrent resolutions (H.C.R. Nos. 69 through 72) were referred to Printing and further action was deferred:

H.R. No. 48, entitled: "HOUSE RESOLUTION ENCOURAGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO APPROVE THE REQUEST TO REOPEN PARADISE PARK AS A HAWAIIAN CULTURAL CENTER," was offered by Representative Choy.

H.R. No. 49, entitled: "HOUSE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A COMPARATIVE STUDY OF STATES CONCERNING THE COSTS AND METHODS OF PUBLICIZING REQUIRED STATUTORY LEGAL NOTICES PAID FOR WITH PUBLIC FUNDS," was jointly offered by Representatives Say and Ito.

H.C.R. No. 69, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A LEASE COVERING A PORTION OF STATE SUBMERGED LANDS AT PIERS 24 TO 26 IN HONOLULU HARBOR, OAHU, FOR PACIFIC SHIPYARDS INTERNATIONAL," was offered by Representative Nishimoto.

H.C.R. No. 70, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO APPROVE THE REQUEST TO REOPEN PARADISE PARK AS A HAWAIIAN CULTURAL CENTER," was offered by Representative Choy.

H.C.R. No. 71, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PUBLIC UTILITIES COMMISSION TO OPEN A DOCKET TO CONSIDER THE APPROPRIATENESS OF AMENDING THE REGULATORY STRUCTURE APPLICABLE TO ELECTRIC UTILITIES IN LIGHT OF ONGOING DEVELOPMENTS IN THE DEPLOYMENT OF RENEWABLE ENERGY," was jointly offered by Representatives Say, Choy, Ichiyama, Ito, Morikawa, Oshiro and Tokioka.

H.C.R. No. 72, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A COMPARATIVE STUDY OF STATES CONCERNING THE COSTS AND METHODS OF PUBLICIZING REQUIRED STATUTORY LEGAL NOTICES PAID FOR WITH PUBLIC FUNDS," was jointly offered by Representatives Say and Ito.

ANNOUNCEMENTS

Representative Yamane: "Mr. Speaker, quick announcement for those of you that plan to access H-1 freeway going westbound. Just to let you know that the on ramp at Punchbowl is closed. Thank you."

Representative Takai: "Thank you, Mr. Speaker. I wanted to remind you and the Members that we have a very special info briefing tomorrow with breakfast. So those of you up here bright and early at 8:30, I'd like to invite you to Room 312. We've invited many of the military leaders from Hawaii, as well as the Chamber's Military Affairs Council. And at 9:45, a few people including General Darryll Wong, Jennifer Sabas, and some people from the military will be briefing us about not only the importance of the military in Hawaii, but also what they're doing to reform the Military Affairs Council in Hawaii. So, all of this is in Room 312, and if you come early you'll have breakfast. Thank you."

At this time, the Chair stated:

"Members, please remember that you should have submitted to the Clerk the list of House Bills on the consent calendar for which you'll be inserting written comments in support or in opposition. Lists are due by adjournment of today's Floor session."

COMMITTEE ASSIGNMENTS

The following measures were referred to committee by the Speaker:

H.R.
Nos.

Referred to:

- 46 Jointly to the Committee on Transportation and the Committee on Water & Land, then to the Committee on Finance
- 47 Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Health

H.C.R.
Nos.

Referred to:

- 66 Committee on Consumer Protection & Commerce, then to the Committee on Finance
- 67 Jointly to the Committee on Transportation and the Committee on Water & Land, then to the Committee on Finance
- 68 Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Health

S.B.
Nos.

Referred to:

- 2308, SD1 Committee on Public Safety, then to the Committee on Finance

- 2348, SD2 Committee on Health, then to the Committee on Finance
- 2411, SD1 Committee on Finance
- 2467 Committee on Health, then to the Committee on Consumer Protection & Commerce
- 2470, SD1 Committee on Health, then to the Committee on Consumer Protection & Commerce, then to the Committee on Finance
- 2476, SD1 Committee on Water & Land, then to the Committee on Consumer Protection & Commerce
- 2478 Committee on Health, then to the Committee on Consumer Protection & Commerce
- 2491 Committee on Health, then to the Committee on Consumer Protection & Commerce
- 2541, SD1 Jointly to the Committee on Housing and the Committee on Human Services, then to the Committee on Finance
- 2807 Committee on Finance
- 2818 Committee on Consumer Protection & Commerce
- 2829, SD1 Committee on Finance
- 2841, SD1 Committee on Human Services, then to the Committee on Finance
- 2877, SD1 Committee on Water & Land, then to the Committee on Finance

ADJOURNMENT

At 10:56 o'clock, on motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the House of Representatives adjourned until 12:00 o'clock noon Thursday, March 6, 2014. (Representative Wooley was excused.)

HOUSE COMMUNICATIONS

"March 04, 2014

Governor Neil Abercrombie
State of Hawaii
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Governor Abercrombie:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following House Bills, copies of which are attached hereto:

H.B. No. 748, H.D. 2, entitled:

"PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO AUTHORIZE THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST AGRICULTURAL ENTERPRISES."

H.B. No. 1499, H.D. 1, entitled:

"PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION REGARDING THE FREEDOM OF SPEECH."

Said measures passed Third Reading in the House of Representatives on this date.

Respectfully,
/s/ Brian L. Takeshita
BRIAN L. TAKESHITA
Chief Clerk

Enclosures

CC: Carol Taniguchi, Clerk of the Senate
Scott Nago, Chief Election Officer"