

SIXTIETH DAY

Tuesday, May 5, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 10:25 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Ezra R. Kanoho, after which the Roll was called showing all members present with the exception of Representatives Morihara, Say and Takumi, who were excused.

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

GOVERNOR'S MESSAGE

The following communication from the Governor (Gov. Msg. No. 215) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 215, transmitting the Executive Order providing for an extension of the Regular Session of 1998 of the Nineteenth State Legislature, as follows:

"EXECUTIVE ORDER"

WHEREAS, Section 10 of Article III of the Constitution of the State of Hawaii provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the Governor'; and

WHEREAS, the Governor has been requested to grant an extension and it appears that such an extension is necessary;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii for a period of 24 hours following 12:00 o'clock midnight, May 5, 1998.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 5th day of May, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

APPROVED AS TO FORM:

\s\ Margery S. Bronster

MARGERY S. BRONSTER
Attorney General"

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 735 through 737) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 735, informing the House that the President has, on May 1, 1998, appointed as conferees on the part of the Senate for the consideration of

amendments proposed by the Senate to the following House Concurrent Resolutions:

H.C.R. No. 88, HD 1, SD 1:

Senators Kanno/Chun Oakland/Baker/Fukunaga, Co-Chairs; and Anderson

H.C.R. No. 235, HD 1, SD 1:

Senator Levin, Chair; Baker, Chun Oakland, Fukunaga and Metcalf

Sen. Com. No. 736, informing the House that the Senate has reconsidered its action of April 29, 1998, in disagreeing to the amendments proposed by the House to the following Senate Concurrent Resolutions and has moved to agree to the amendments, and said Senate Concurrent Resolutions have been Finally Adopted on May 1, 1998:

S.C.R. No. 19, SD 1, HD 1, entitled: "REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR MEDICAL FOODS FOR THE TREATMENT OF INHERITED METABOLIC DISEASES"; and

S.C.R. No. 159, HD 1, entitled: "REQUESTING THE ESTABLISHMENT OF THE OKINAWAN CENTENNIAL CELEBRATION COMMISSION BY EXECUTIVE ORDER".

Sen. Com. No. 737, informing the House that the Senate has reconsidered its action of April 16, 1998, in disagreeing to the amendments proposed by the House to the following Senate Bills and has moved to agree to the amendments, and said Senate Bills have passed Final Reading on May 1, 1998:

S.B. No. 2334, SD 1, HD 1, entitled: "RELATING TO TIME SHARING PLANS";

S.B. No. 2619, SD 1, HD 1, entitled: "RELATING TO FAIR TRADE REGULATIONS";

S.B. No. 2805, SD 1, HD 1, entitled: "RELATING TO APPEALS FROM THE PUBLIC UTILITIES COMMISSION";

S.B. No. 2822, SD 1, HD 1, entitled: "RELATING TO LEMON LAW DISCLOSURE COMPLIANCE";

S.B. No. 2829, HD 1, entitled: "RELATING TO MOTOR VEHICLE REPAIRS";

S.B. No. 2842, HD 1, entitled: "RELATING TO THE HAWAII MEDICAL MALPRACTICE UNDERWRITING PLAN";

S.B. No. 3018, HD 1, entitled: "RELATING TO THE UNIFORM COMMERCIAL CODE"; and

S.B. No. 3141, SD 1, HD 1, entitled: "RELATING TO TAXATION".

INTRODUCTIONS

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

Representative Kawanakoa introduced Ms. Beadie Kanahele Dawson, a former Deputy Attorney General.

Representative Thielen introduced Mr. Herbert Kalani and Ms. Laura Ellis.

Representative Yamane introduced a group of students from Epiphany School. They were accompanied by their teacher, Ms. Jennifer Khan.

Representative Hiraki introduced a friend, Mr. Howard Takata.

At 10:34 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:50 o'clock a.m.

Representative Ward introduced Mr. Don Hasenneger from the Art Center.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the rules were suspended for the purpose of considering House and Senate Bills on Final Reading on the basis of a modified consent calendar. (Representative Suzuki was excused.)

UNFINISHED BUSINESS

Conf. Com. Rep. No. 52 and H.B. No. 3367, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3367, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH TOURISM," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 53 and H.B. No. 2443, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2443, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY ENCROACHMENT," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 54 and H.B. No. 2778, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2778, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I want to state a conflict of interest. I'm one of those native Hawaiians that have an individual claim," and the Chair ruled "no conflict."

Representative Kahikina continued, stating:

"Thank you, Mr. Speaker. This is to continue chapter 674. Last session we extended the 'sunset clause', but we also did something else, Mr. Speaker. We eliminated some of the individual claims. And at this point, this

Representative, which had three claims, now is down to one claim.

"I support this because at least we are starting to rectify a lot of the injustices that were done to native Hawaiians. I really believe that this is the first apology bill since the overthrow of Queen Liliuokalani since the Organic Act. It's called the Hawaiian Homes Commission Act of 1920, amended in 1921. Mr. Speaker, I support this measure and I hope that justice will be done for the native Hawaiians."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2778, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR LEGAL SERVICES FOR DEPARTMENT OF HAWAIIAN HOME LANDS INDIVIDUAL CLAIMS REVIEW," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 55 and H.B. No. 2533, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2533, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"The purpose of House Bill 2533, HD 1, SD 2, CD 1, is to create a two-tier system of penalties for importing prohibited plants, animals and microorganisms. This bill provides that any person or organization that violates State law concerning the importation of these organisms will be: one, 'guilty of a petty misdemeanor and subject to a fine of not less than \$5,000,' and 'not more than \$20,000.' Previously under the old statute, the minimum fine was \$25.

"If we are caught importing restricted plants, animals and microorganisms with the intention to propagate and to sell these items, this bill increases the fine from \$25,000. It now goes up to \$50,000 to as high as \$200,000. This bill sends a clear message to potential violators of Hawaii's quarantine laws that the State is very serious about protecting our environment, our people, and our employment from alien species.

"Theoretically these alien species would cost much more than what the penalty calls for in this bill. The economic losses to our community and our environment cannot be measured. This is a Majority Package bill and I urge everyone to support it. 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. 2533, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO QUARANTINE," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 56 and H.B. No. 2701, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2701, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"This bill 'slams' those long distance carriers who have been 'slamming' Hawaii's consumers by switching their long distance carrier without their knowledge or consent.

"Mr. Speaker, I urge all telephone subscribers in this State to very, very carefully examine your telephone bills to make sure that the long distance carrier that's listed on your bill is the one that is of your choosing and not someone else's. If it is another carrier and you have been 'slammed', immediately call your phone company and ask that all charges related to that transfer, the illegal transfer or 'slamming', be reversed. And then ask for a PUC restriction so it cannot happen to you. This is happening far too often in Hawaii and this bill goes a long way towards giving the PUC the authority to stop slamming."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2701, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATION," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 57 and H.B. No. 2985, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2985, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION AND WATER UTILIZATION PROJECTS," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 58 and H.B. No. 3138, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3138, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COUNTIES," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 59 and H.B. No. 3457, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3457, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"I just wanted to inform the members that after over 20 years of a raging conflict in West Hawaii between the tropical fish collectors and the divers in the area, we in this Legislature are passing out a bill that establishes a management framework that will resolve this issue. For the first time in these many decades, all of these parties are actually supporting this approach and supporting this measure. And we really have done a great service not only to the community in West Hawaii, but I think also to the ocean community and then as an example to the rest of the State.

"And if I may, Mr. Speaker, request if I could insert some additional words into the Journal," and the Chair "so ordered."

Representative Tarnas' additional remarks are as follows:

"The beautiful fish that inhabit the nearshore reefs of our Big Island are important assets for many commercial

activities, and for the food and enjoyment of community members. Because all of us want to protect and sustain these aquatic resources, there continues to be concern over their use and the quality of their habitat.

"One industry, the tropical fish collecting industry, has been the subject of much controversy over the last 20 years. Past attempts to resolve sustainability concerns of this fishery have helped pacify some resource users, but the debate has continued to become more and more divisive.

"For the past decade, I have been involved with efforts to resolve this conflict among community members. Major issues have arisen between those who wish to collect fish for aquarium purposes and those who wish to keep the fish in the water for admiration and ecological value. There is currently a solution in which both groups can achieve their goals. That solution is now becoming a reality.

"As this District's Legislative Representative and Chair of the Committee on Ocean Recreation and Marine Resources (OMR), I authored and sponsored House Bill 3457 (HB 3457), which establishes management framework for addressing this long-standing regional conflict. HB 3457 designates a fishery management area along the entire west coast of the Big Island. The bill also establishes deadlines for the State to designate protected areas along the coast, to be done through close consultation and facilitated dialogue with community members and resource users. The timetable states that by:

- * October 1998, a minimum of 30 percent of the coastal waters will be designated as areas where aquarium fish collecting is prohibited;
- * July 1999, a coast-wide day use mooring buoy system will be established, and some high-use areas will be designated as areas where no anchoring is allowed;
- * October 1999, a portion of the no collecting area will be designated as a reserve where fishing for reef-dwelling fish is prohibited; and
- * July 2000, gill nets used as set nets will be prohibited in certain areas. The OMR Committee Report notes that throw nets and surround nets are excluded from this prohibition.

"Fish replenishment areas are proven management tools to enhance nearshore fisheries. As a professional marine resource manager, I know this from personal experience in the Pacific, Southeast Asia, East Africa, and the Middle East. The Great Barrier Reef is a classic example of a management framework that supports sustainable fishing and recreational diving.

"It is important to emphasize that day-use moorings are already installed along much of the Big Island's coastline, thanks to the joint efforts of the dive industry, TORCH, UH Sea Grant and the Malama Kai Foundation. Selecting protected area sites and buoy locations must always include local resource users. With HB 3457, we are leading the State in utilizing these effective management tools in such a large area.

"HB 3457 has been approved in both the House and the Senate. It will then be ready for the Governor's signature. The bill's success can be attributed to lobbying efforts by the tropical fish collectors, the recreational dive industry, scientists, and advocates such as The Lost Fish Coalition. This is the first time these groups have collaboratively supported a bill. It was an uneasy alliance in the beginning, but their willingness to

work together toward a common goal led to successful legislation. This same partnership is needed as the community moves forward in developing the management plan.

"In addition to the hundreds of supporters of HB 3457, the management plan framework has gained the support of international conservation organizations such as the World Wildlife Fund and Conservation International.

"We in West Hawaii have the opportunity to work together to make sure that our grandchildren will have fish to admire and catch in our nearshore waters. This is part of our community's quality of life and lifestyle, and for many, our livelihood. Setting aside fish replenishment areas means that we give a little now to be able to receive the ocean's bounty for many years to come. Please join together with me and the State Department of Land and Natural Resources to build a management plan. People of all ages who love to fish, dive, snorkel or otherwise enjoy the beautiful reef fish will benefit from your participation. Mahalo for your support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3457, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 60 and H.B. No. 1815, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1815, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. House Bill 1815 is a good bill that continues efforts to professionalize and improve the operations of the State Employees' Retirement System and protect the interest of current and future retirees and their dependents.

"In order to ensure that the investment objectives of the system are met, a chief investment officer is needed to monitor and oversee the 37 investment management firms that are currently retained by the ERS. Diversifying investments over products and management firms is a common practice that is designed to obtain satisfactory investment returns without exposure to undue risk. A chief investment officer, Mr. Speaker, will enhance the oversight of in-house investments and investment management firms to increase investment returns and minimize investment expenses. In turn, this will reduce the State and county governments' appropriations to the ERS and help our General Fund, Mr. Speaker.

"Just a few more remarks, Mr. Speaker. Along the same lines, HB 1815 also authorizes the ERS to hire outside legal counsel. Even though the Attorney General has designated a deputy exclusively for the system, the ERS has testified that it needs a more expedient and specialized legal work in these highly complicated investment cases and contracts where time is of the essence. Like the chief investment officer, the ability to hire legal counsel who is experienced in investment and contract matters will serve the retirees and their dependents who depend, and will depend in the future, on the quality of this expertise to ensure a secure source of income during times it will be needed the most. And I'd like to ask, Mr. Speaker, if the remainder of my remarks

may be inserted in the Journal," and the Chair "so ordered."

Representative Thielen's additional remarks are as follows:

"As I mentioned earlier, H.B. 1815 follows previous efforts to improve and professionalize the ERS. I'm especially gratified to see that so many of the changes that I have advocated over the years are becoming reality. Bills that the Legislature passed during the last two years strengthened the system, among other things, systematically reducing the unfunded pension benefit obligation, moving to a better actuarial funding method, and increasing the amount of excess earnings the system may retain. H.B. 1815 builds on these improvements.

"For these reasons, Mr. Speaker, I strongly support H.B. 1815, HD 1, SD 1, CD 1. Thank you."

Representative Pendleton then rose in support of the measure and asked that his comments be inserted into the Journal and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 1815, which is a bill relating to the ERS Chief Investment Officer and Legal Counsel.

"Mr. Speaker, I support this measure for a number of reasons. Permit me to offer a few of them and to offer a few observations on the ERS in general. The balance of my remarks will indicate that I have given quite a lot of thought to this system, that is, the public retirement system.

"Mr. Speaker, House Bill 1815 will authorize the Board of Trustees of the Employees Retirement System to appoint a chief investment officer. It also provides that the salary of the administrator and the chief investment officer shall be set by the board within the range established for deputy directors.

"Mr. Speaker, as humble as these statutory changes may appear, they impact a major entity of the State. Permit me to comment upon the ERS generally for a moment. My remarks will be clearly and increasingly germane as I discuss the ERS generally with House Bill 1815 specifically.

"Mr. Speaker, if one is a public employee for the State of Hawaii, one's retirement benefits in some ways resemble a pond of water in a dry climate. Infrequent rains replenish a portion of the pond's contents, but slow evaporation depletes the overall water supply. Over time, less and less water remains in the pond. Barring divine intervention, the pond will eventually dry up. This is why we are beginning to take action via bills such as HB 1815.

"Similarly, Hawaii's Employee Retirement System supplies pension benefits to State employees without complete funding for the future. As of December 1997, the State employee retirement system has an unfunded liability of \$1,397,400.00.

"Mr. Speaker, in simpler terms, the State is \$1.3 million short on its retirement obligations. Although this poses no immediate threat to workers reaching retirement in the next few years, unfunded liability could become an increasingly serious problem, ultimately requiring taxpayers to pay in the future for the State's lack of present action. In other words, if the State's employee retirement system ever fails to meet its pension liabilities, the shortfall shifts to the taxpayers of this State. This is

precisely why all Hawaii residents -- not simply State employees -- should be interested in the health of the public pension system.

"Mr. Speaker, the unfunded liability of the State employee retirement system becomes an even greater concern when one factors in Hawaii's weakened economy. As some in the Legislature consider proposals to realize revenue savings, revisit employment benefits, and promote early retirement, employees must look for more effective ways to secure their retirement years. The government must find viable alternatives for providing pension benefits at an affordable long term cost. With unpredictable and unstable budget demands, employees and employers must consider pension reform as a means to secure the future of present employees and future retirees.

Hawaii's public employees are presently covered by a defined benefit pension plan. In short, Mr. Speaker, a defined benefit plan pays workers a certain amount of money each month while in retirement. However, workers are only entitled to such benefits after completing ten (10) years of government service. This ten year threshold is known as the 'vesting period.'

"If an employee leaves government employment before the vesting period, the employee receives nothing. If the employee leaves after the vesting period, he or she can neither transfer the accumulated savings to another pension plan, nor reinvest the savings to receive greater benefits in the future. Although State employers can invest retirement contributions for profit, investment earnings never increase a employees fixed benefits. In other words, when the return on investment is greater than expected, the government benefits but not the retiree.

"Mr. Speaker, in contrast, most private employers, and an increasing number of state governments, have either switched to innovative defined contribution pension plans or are exploring the possibility of doing so. This is because defined contribution plans are seen as affordable and equitable alternatives to existing defined benefit plans. Under defined contribution plans, the employer deposits a specified or fixed amount into a personal investment account for each participating employee. Thereafter, the retirement benefits equal those accumulated funds plus all returns from employee-managed investments. The final benefit is neither fixed nor capped.

"In essence, Mr. Speaker, a defined contribution plan affords and empowers an employee to secure greater retirement benefits by prudently and wisely investing all or part of the employer contributions. The benefits under a defined contribution plan become the property of the employee immediately, regardless of the length of government employment. This instantaneous vesting is perhaps one of the most attractive features of the defined contribution pension plan.

"Furthermore, the employee can transfer pension assets to other pension plans or reinvest them in another retirement account. In other words, no State employee is deprived of the opportunity to receive the largest, safest, and most convenient retirement benefits.

"Mr. Speaker, the State of Hawaii, as an employer of over 40,000 workers, could also benefit from permitting its employees to avail themselves of innovative defined contribution pension plans. Other states facing economic crises, like Hawaii, have switched or are contemplating switching to defined contribution plans to ensure the long-term viability of public retirement plans. The ultimate act of irresponsibility would be to betray the trust of a

State retiree by failing to follow-through with pension commitments.

"A defined contribution plan assures greater control over State funding by eliminating the administrative costs associated with managing a sizable pool of assets and stabilizing State contribution amounts. Most importantly, defined contribution plans eliminate the danger that government assets will become insolvent or over-extended, resulting in taxpayer responsibility for an under-funded retirement system.

"Mr. Speaker, defined contribution plans are becoming increasingly attractive in those states committed to the future well-being of their employees. Whether as a means to supplement existing and antiquated defined benefit plans, or through complete conversion to defined contribution plans, jurisdictions such as Michigan, Indiana, Colorado, Florida, Texas, Nebraska, and West Virginia have recognized the substantial benefits of pension cost management and increased employee satisfaction. These states have asked themselves an important question: How can we provide better retirement benefits for our elderly in light of the financial realities? We in Hawaii are obligated to ask and answer this same question.

"Mr. Speaker, we in Hawaii are not asking this particular question today. We have before us a much humbler, less bold, bill. House Bill 1815 begins the process of looking at how we are providing for our future retirees. It is not the last word on this issue. It is merely the first in a long-needed and important discussion.

"I look forward to dialoguing with my colleagues on our ERS. We will eventually have to ask the question: are we doing what is best for our employees, our residents? What will be the cost to our elderly and our taxpayers?

"Whether the answer is a new defined contribution plan, a modification of the old defined benefit plan, or a hybrid of the two, it would be irresponsible and unfair for the State of Hawaii to ignore the pressing need for genuine pension reform. Now is the time to begin strengthening Hawaii's public pension system for the 21st century.

"Having offered these remarks, Mr. Speaker, it is clear that I strongly support House Bill 1815. I look forward to future work on the ERS generally and to a clear discussion of the pros and cons of a defined contribution plan versus the traditional defined benefit plan. 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. 1815, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

Conf. Com. Rep. No. 61 and H.B. No. 2567, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2567, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Just to say in brief, I wanted to express my support for ending duplication of government services, but express

my disappointment in that we have just come up with a study. But I do hope that this will lead to ending duplication of many of our duplicate services between the county and the State. May I request that the remainder of my remarks be submitted in the Journal," and the Chair "so ordered."

Representative Marumoto's additional remarks are as follows:

"This bill has all the teeth of a resolution. In fact, resolutions that are referred to the Legislative Auditor, probably have more chance of causing something to happen.

"If the Governor has any problem coming up with a list, I'm certain the mayors might be able to help him. They've had a list of duplicated areas for years.

"Unfortunately, if past behavior is any indicator, the Governor will find it very hard to consolidate anything much less departments. In fact his last effort resulted in very little by forcing people to find out more about Machiavelli. That's because the writer of the report quoted the Italian political strategist, 'to support doing nothing because it would cause people discomfort'

"What this bill lacks is a list of specific areas. We do the Governor no favor by leaving it up to him to determine the list. He has shown a decided inability to figure out how to eliminate duplication.

"We've heard about the duplication year after year, from two road crews on Molokai, to people not knowing who to call to complain about park landscaping. The mayors have come to this body annually with their recommendations for elimination of duplication, but to no avail.

"Let's hope this bill finally resolves the problem."

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

"Thank you, Mr. Speaker. As the Minority Floor Leader has mentioned, this is a good bill. It's an ERTF measure to do away with some of the duplication between our road maintenance and other park services -- the duplication between county and State government. The difficulty that I find is that once again we're having a task force to go and look at this and study this once again. I believe over the years, at least your Minority, Mr. Speaker, has been offering bills to do this, to make these changes, to reduce the duplication and make government more efficient.

"The other thing I would note that seems to be a bit shortsighted is that we're asking the Governor and the mayors to come together and give us a report just after the General Election, just after November, November 30 to be exact. I find it may be very difficult, considering that we have one of the mayors and the Governor in a contested race for the Governor's seat, and perhaps a third mayor or third contestant coming from another mayorship.

"Mr. Speaker, I find that this task force is going to be strapped with other business at hand and probably will be a very politically motivated study. And I'm afraid that this task force is going to end up with no recommendation at all.

"Thank you, Mr. Speaker."

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

"What this bill does is to require the Governor and the Mayor, and of course their staffs, to look at any duplication in government between State and county governments, and it's put into two phases. The first one is due at the end of November and they would take a look at any duplication and questions and issues around roads, highways and parks, which seem to be at this time a paramount issue. But beyond that, for the next year, the mayors and the counties and their staffs will still need to continue discussion on the remainder of all of the governmental services that could be duplicated by State and county.

"So I think this is a good effort to get them to start moving in that direction. We've had a number of resolutions in the past, Mr. Speaker, that I recall in which we're always asking the counties to take a look at the services that they're duplicating. These resolutions really don't go anywhere. I've seen that happen. I think this bill would put into effect, once and for all, a sincere and honest attempt by the Governor as well as the counties to come up with that study and to recommend to us legislation to eliminate this problem. Thank you."

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

"What this bill does is it requires the Governor and the mayors of the counties to begin work as soon as possible, upon approval date of this bill, and they're tasked with analyzing the issue of duplicative government services and they have to come forward with a recommendation to the Legislature on two particular items, and that's parks and highways. And then they have until November 1999 to come back as to all other areas for the very same reasons as articulated by the Minority Leader.

"To the contrary, I believe that this will create a better environment for the mayors and the Governor to really begin work in this area. To trust that they may be out there in the public would make them more susceptible to questions from the public regarding the progress of their work on this as directed by the Legislature, Mr. Speaker. And for that reason, I support this Majority Package bill. Thank you."

Representative Pendleton then rose to speak in support of the measure with reservations and asked that Representative Kawanakoa's remarks be entered into the Journal as if his own, and the Chair "so ordered." (By reference only)

Representative Pendleton continued, stating:

"I'd also like to add just a couple points, Mr. Speaker. Again we have another example of our eagerness to be able to demonstrate that we are acting by studying and discussing and reflecting and thinking more about this particular subject. We all know that there is ample areas of duplication which could be eliminated. And I think the time for study was done during the ERTF. We should move and act rather than just continue to talk about this. And so those are my reservations on this measure, 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. 2567, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DUPLICATION OF GOVERNMENTAL SERVICES," passed Final Reading by a vote of 50 ayes, with Representative Cachola being excused.

The Chair directed the Clerk to note that H.B. Nos. 3367, 2443, 2778, 2533, 2701, 2985, 3138, 3457, 1815 and 2567 had passed Final Reading at 11:10 o'clock a.m.

Conf. Com. Rep. No. 62 and H.B. No. 3257, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3257, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY CHECKS," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 63 and H.B. No. 2358, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2358, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

Representative Marumoto's remarks are as follows:

"Mr. Speaker, as you know, keiki car safety is an issue close to my heart, and one which I feel deserves attention, yet spends few taxpayer dollars.

"I would like to thank the Chairs of the Transportation and Judiciary Committees passing this bill this year, but I think we need to try a little harder next year on getting children under the age of four into keiki car seats. Hopefully, no fatalities or tragic injuries will occur in the intervening period. Hopefully, more parents will see the wisdom of protecting their children in keiki car seats, without government's encouragement.

"I would like to reiterate here for the members some reasons why keiki injury prevention and keiki car seats are so vital to the health and safety of Hawaii's children. These aren't my words, Mr. Speaker--they are the words of professionals in the safety and health fields who care about saving lives.

"According to DOH: 'The proper use of child passenger restraints is the most important factor in preventing death and disability in a car crash. Many children die or are disabled in survivable crashes because they were not properly restrained in a car seat or seat belt.

'The usage rate of car seats in Hawaii is far below the national average of 65% (Oahu, 31%, Kauai 42%, Maui 54%,). Moreover, since 1993, the usage rate on Oahu has fallen 27%.'

"Adding to this problem, the procedure for installing car seats is very complicated and many people need hands-on instruction to do it correctly. Of 200 car seats examined in department sponsored car seat checkups in 1997, only two were found to have been correctly installed.

"HB 2358 proposes to effectively make the punishment fit, by requiring first-time violators of Hawaii's Child Restraint Law to attend a child passenger safety class. The 4 hour class will provide education on the importance of using car seats and hands on instruction on how to install their own car seats correctly."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2358, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER RESTRAINT SYSTEMS," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 64 and H.B. No. 3022, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3022, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. As mentioned in the Conference Committee Report, the purpose of this bill is to expedite efforts to renovate or expand the facilities on the grounds of the Hawaii Youth Correctional Facility in Kailua. I've been told, Mr. Speaker, that this facility, currently built for 30 people, now has close to 90 youths in there.

"My concern with the bill and my concern with the expansion project is simply this: we're spending \$8 million to construct 13 additional beds for a cost of about \$615,000 per bed. My only suggestion is as we go through the process of urging the Office of Youth Services and working with them to develop an expansion program for the facility, that we consider a project of let's say 80 additional beds at \$100,000, or \$8 million. I just think it's foolish on our part to construct an additional facility with only 13 beds and spend \$8 million.

"Thank you, Mr. Speaker."

Representative Arakaki then rose and stated:

"Thank you, Mr. Speaker. First of all, I would like to have my vote changed from a 'no' to an 'aye with reservations'," and the Chair "so ordered."

Representative Arakaki continued, stating:

"I'd like to speak in support of the bill and state my reservations if I may. I guess it was back somewhere around 1990 or 1991 when I was serving as the Chair of the Human Services Committee that there were already plans made to build a 150 bed facility. At that point in time, there was also a lot of controversy regarding the women's prison because of a consent decree that was hanging over the then Department of Public Safety.

"The controversy was that the residents in that area did not want a full scale facility for the women's prison. We were able to craft what I thought was a win-win situation where we provided for an exchange of facilities and the understanding, along with the planning for a smaller facility for the youths, was based on expert advice both nationally and locally, including the Director of the Office of Youth Services.

"We did not need a 150 bed facility. And in the assessment we were told that with the appropriate alternate programs in place, all we needed were 25 beds to serve those who needed to be incarcerated. So I think much of the arguments regarding the number of beds that are needed holds true today. I don't think we need an 80 bed facility. We probably could do with what we have now if we had the appropriate programs in place. That would be a lot more cost-effective when you consider that

we're spending over \$70,000 per inmate at the Youth Correctional Facility.

"I believe those kinds of monies could be better spent providing the services to those youths who need them. It should also be noted that those youths who are violent and who do commit serious crimes are usually remanded to adult courts. So in that sense, I believe we need to support this measure because there is a need for a new facility. However, I would argue that not only should we be looking at building more facilities, but looking at more cost-effective programs to provide better transition back to the community for our young people.

"Thank you, Mr. Speaker."

At 11:20 o'clock a.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:38 o'clock p.m.

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

"Thank you, Mr. Speaker. It's very disturbing to see the poor planning that has gone into the Hawaii Youth Correctional Facility. When I heard Representative Takai mention another \$8 million to create 13 beds, it just seems to be right in line with what's happened out there. When I served on Public Safety, I went through the new facility which was built far in excess of \$20 million and created only 30 beds.

"And at that time, that was the summer of 1995, there were over 78 young people in the facility across the street. And I asked the warden: 'What are you going to do with them?' He said: 'Well, we have the girls' facility that we can expand and put some of the other boys that are not as troubled.' The idea was that this beautiful, new, all air conditioned facility in Maunawili would house only the most seriously disturbed young people. Each youngster to be in his own locked up cell so he could not harm any of the other youngsters that were in there. Well, today we have young people double bunked in those locked cells.

"It's astounding to me. The people that are in charge that cram these facilities and spend the money and we never get out of the problems we're in. And now we're going to rush off and spend \$8 million to create a few more beds and we still have not solved the problem. I think we should have people go study what they do in Utah; Pennsylvania has a fabulous facility.

"It would be cheaper for us to send our disturbed law-breaking youngsters to Pennsylvania than to build this new facility. Yet I know that we're probably sitting in a spot where we could have consent decree against us for the youth facility because we are overcrowded. The teachers that teach at Olomana are very upset because of the overcrowding. They are aware that young people who have not been rehabilitated a bit are being let out into community homes where the supervision is not as good as it should be. They would report that young people would actually come back to the facility, throw rocks up on the window, put holes in some people's tires, and they knew who was doing it. But it's being done because they simply don't have room.

"I just wish that there was better planning. The people in government should look at spending money the way they would look at spending their own money.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I have heard the testimonies on this floor and as your Chairman of Public Safety, I'm trying to strike a balance between what has been represented by Representative Takai and Representative Arakaki. In effect, what we have done with your CD 1 on House Bill 3022 is to call for a 'time out', if you will, so that the people with the Office of Youth Services, together with the Department of Accounting and General Services, can again review the plans for the expansion and renovation of the Youth Correctional Facility.

"We did grant the OYS an extension from the exemptions so that they can proceed with any renovation that they feel is necessary. And I believe they will be able to do that with respect to the 8 bed renovation of Maluhia Cottage where the female wards will be housed. But the bulk of the expense, as attested to by Representative Takai, will have to be reviewed once again because what we have also done with your House Bill 3022 is, in effect, block any further construction beyond what is already present at the so-called piggery and barns site, which is about the closest site within the facility to the Olomana subdivision. And the residents of the subdivision have voiced their concerns with respect to further expansion of that particular site.

"So I look forward to the arguments which will again be posed by the Office of Youth Services and I guess the nearby residents when this measure is once again brought up for our review next year. Thank you, Mr. Speaker."

Representative Pendleton then rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I am rising in support with reservations. I wish to explain my reasons for voting with reservations.

"The last time I spoke on this measure, Mr. Speaker, I spoke with no reservations. And that was because the bill was a work in progress and I was carefully monitoring its progress. I benefitted a great deal from the kokua and help of Representative Garcia and Senator Chun Oakland.

"At every step of the game these two legislators permitted my involvement and that of my community. Both of these legislators met personally with my constituents, and for their responsiveness to the people of Kailua I extend a sincere and heartfelt mahalo.

"Mr. Speaker, as we all know, this bill will extend the exemption of the Office of Youth Services from State and county requirements relating to the planning, land use, and construction for the renovation or expansion of existing facilities or construction of new facilities on grounds of the Hawaii Youth Correctional Facility.

"As a matter of general principle, Mr. Speaker, I oppose such measures which undercut other safeguards. These safeguards were set in place by the county.

"However, because this bill was an Administration bill, I felt the prudent thing to do was to seek to influence it and shape it so that it was somehow acceptable to my community. I would rather be a positive influence on a bill like this rather than simply offer up a 'knee-jerk no vote'.

"Because this measure deals with a matter very sensitive to my district, and in many ways very

complicated, I will address a number of points. Some of these will be repetitive, and I advise any and all who read these remarks to also read my previous remarks on this issue to obtain a full account of my thinking and work on this issue.

"Mr. Speaker, my Olomana constituents were particularly concerned that the construction of a vocational and maintenance facility at the site of the old piggery/barn would be too close to their backyards. This site was selected by the Office of Youth Services because of the close proximity to the sewer connection. Unfortunately, it happens to be right in the backyards of my constituents' homes. You can literally see this facility from the yards of residents just a few hundred feet away. There have been escapes in years past from the site, though I believe that the brand new secure facility presently has a perfect record. Let us hope it stays that way.

"The present bill, CD 1, prohibits and precludes any such use for this old piggery/barn site. This was a non-negotiable item for my constituents. I interpret this bill to say that only renovation for existing use of this piggery/barn area is permitted.

"The desire of my constituents and residents was and is to create a buffer between the correctional facility and homes. Accordingly, my constituents met with the Office of Youth Services to convey this sentiment. I believe that it was also very helpful to meet with Representative Garcia and Senator Chun Oakland. They share my concerns.

"The other language of this bill which my constituents are pleased about has to do with the water tank. If there is to be a new one, or an additional one, it is to be in full compliance with any State or county rules or laws or procedures. This is a good provision. Again, I am generally opposed to waivers. The State should apply by the established procedures. This is not only common sense but is a 'home rule' issue as well.

"Mr. Speaker, in my previous remarks on this legislation, I stated that I hoped to see this bill -- which at the time was HB 3022, HD 1 -- through the process into a form which meets the needs of all of my Kailua residents.

"Mr. Speaker, I am pleased that this bill has taken into consideration the concerns of my constituents. And for the foregoing reasons, I support it with reservations. Thank you, Mr. Speaker."

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

"I was astounded at the cost that my good friend, Representative Takai, brought out. I guess once in a while we catch one of these when it comes to the floor, but I do believe that we have youthful offenders out there, people who wouldn't think twice about beating up your wife or beating up my wife. A 16 year old guy, 250 pounds, bigger than me, beat her up bloody and left her in the street. We should have a bed and a place for every one of the guys because we want to protect society. That's what it's all about.

"So I support the expansion of the facility, and I hope what the Chairman of Public Safety said is true, that these funds would be judiciously spent and monitored. But every youthful offender should have a bed. If they commit violent crimes, a statement was made earlier that they routinely get processed to adult court. That's not true. It's extraordinary when it happens. So we need to

have a bed for all these bad guys who are under 18. Thank you."

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

"I'd just like to point out that I, too, share a lot of the concerns of the previous speakers. In fact, Mr. Speaker, I had a chance yesterday to draft a short note to Mr. Bert Matsuoka, Executive Director of the Hawaii Youth Services. I asked him a question of the \$8 million for the 18 beds. He responded with a memorandum this morning, and I'd like to just read a little bit from the memorandum.

"It says: 'The 1997 Legislature appropriated \$8 million to the Office of Youth Services for several capital improvement projects. These CIP projects are part of a 1991 master plan for the Hawaii Youth Correctional Facility's complex. Part of the CIP funds will be used to renovate an existing building for an eight bed girls' residential program. Another existing building will be renovated to a 10 bed observation assistance center. The estimated cost of both of these projects is \$3.5 million.'

"He points out in this memorandum that the two buildings are on the State Historical Registry and because of the status, Mr. Speaker, renovations of these old buildings are very complex and expensive. He also points out that the renovations of the existing structures were at the request of the community surrounding the complex area. He notes that the remaining of the \$8 million will be used for the construction of a new vocational maintenance building and to upgrade the facility's infrastructure, sewer lines, electrical, plumbing and water upgrades for several other buildings. I'd just like to add that to the record and throughout this discussion.

"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. 3022, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO YOUTH FACILITY," passed Final Reading by a vote of 45 ayes to 2 noes, with Representatives Takai and Takumi voting no, and Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 65 and H.B. No. 1830, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1830, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 66 and H.B. No. 2878, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2878, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, your conference committee which is made up of the two co-chairs of the Ocean and Marine Resources and Judiciary Committees have engaged in a dialogue that relates specifically to legislative authority and administrative authority. The bill we have before us

is the road map that has been laid out to clearly authorize to the Department of Land and Natural Resources their ability to develop rules for fishery management.

"If I may, Mr. Speaker, step back for a moment and look at this as a political scientist and say, this is the process resulting from years of watching the Administration go through fisheries management. And I think there's some certain degree or certain lack of confidence and trust with the administration in DLNR that they would, in fact, come through with the kind of rules that would meet the policies that this body has in fact enacted. And so with that caution, the conference committee draft has come out which provides for legislative oversight requiring that we actually approve of any changes to the rules in statute.

"This two step process is not one that I'd really been pushing for because I was working for the administrative rule making ability to be clearly within the Administration's authority by recognizing the Judiciary Chair's strong word of caution that we need to have this two step process. And so that is how the bill came out.

"I will ask both you, Mr. Speaker, and the members here, to remember this when we come next year and have measures that we will be considering that will enact the rule changes that have gone through this process and hope that we can fully support the recommendations coming from that rulemaking process and enact those changes into statute.

"Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. In terms of support, I wish to incorporate by reference the remarks of the previous speaker (the Chair 'so ordered.'). As for the reservations, I think the whole point of the debate over this bill, which stretches back not only through this session but really through the last and perhaps even previously, is to provide for better management of our aquatic resources. Our aquatic resources are in dire need of better management. And I don't think that most of us even appreciate the depths of that crisis.

"The basic observation I have is that the Legislature cannot, even if it wants to, manage aquatic resources. It cannot micromanage. It cannot write the regulations. It needs at some point to step back and let the administrative agencies do that management. They need flexibility. They need a little trust. And they need space. My reservations are that this bill really doesn't provide them with that flexibility and keeps them on too tight of a leash.

"Here are three or four basic points. The first is that by providing for a two step process, which is very unusual, we have essentially required those people who are advocating for better management to go through two separate steps, two time consuming steps. The first is, of course, the rulemaking process, which is time consuming in and of itself. After that is pau they have to come back to the Legislature and go back through the legislative process, which can be, frankly, even more time consuming than the administrative rulemaking process.

"Second, we have proposed in this bill the unusual step of requiring a statutory enactment of the rules rather than what is the normal course, to simply give the Legislature the power of oversight by disapproval. The latter is a more economic and efficient approach.

"Third, I thought the whole objective of this measure was to provide for a more effective and timely process. And I think for the reasons I've already discussed that this bill doesn't do that.

"And the fourth point has to do with how we handle a situation where an administrative department perhaps is not responding adequately to the public. I think this whole problem arose because of concerns within the aquatic resource community over whether the Department of Land and Natural Resources was, in fact, doing its job. I think it's our purview to oversee that, but when we step too far in, then we essentially do not allow that department to step in and correct itself and to respond as I think it already is doing.

"So with those points, I agree with the prior speaker that we will have to take a look at it again next year. I hope we don't go down this road again with other situations of this kind. 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. 2878, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 67 and H.B. No. 3289, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3289, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

Conf. Com. Rep. No. 68 and H.B. No. 3403, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, action was deferred one day, with Representatives Goodenow, Menor, Say and Ward being excused.

Conf. Com. Rep. No. 69 and H.B. No. 2598, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2598, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, by granting immunity from liability as stated in this bill, it is hoped that automatic external defibrillators will become commonplace in many of our areas frequented by large groups of people. And as such, more individuals will receive the proper training to operate such devices without fear of being sued and many more lives can be saved. 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. 2598, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTOMATIC EXTERNAL DEFIBRILLATORS," passed Final Reading by a vote of 47 ayes, with Representatives Aiona, Chang, Menor and Say being excused.

The Chair directed the Clerk to note that H.B. Nos. 3257, 2358, 3022, 1830, 2878, 3289 and 2598 had passed Final Reading at 11:50 o'clock a.m.

Conf. Com. Rep. No. 70 and H.B. No. 92, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 92, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 71 and H.B. No. 2332, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2332, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 72 and H.B. No. 2361, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2361, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Motor vehicle towing fees -- I know it's a big surprise that I stand up here and I'm going to vote 'no' on this one, Mr. Speaker. You know it's quite ironic that one of my colleagues on the floor here this morning, his car actually broke down and he's having it towed as we speak. So for his behalf and all of the working families, I'm going to vote 'no' on this. Thank you."

Representative Ward then rose and stated:

"Mr. Speaker, I am that colleague. God bless the tow companies, but I'm going to still have to speak in opposition to this.

"My wife, essentially having an old car that her husband bought her, had it stop right on the freeway. Fortunately, the towing company took her in her situation and got her to a place of safety. I think the difficulty that we experience with towing, Mr. Speaker, is when we're out at a movie or at a restaurant and we come back and our car is gone. It's like the closest thing to having your house violated by a burglar, having yourself violated by a thief.

"But my objections are, other than just the rates that my colleague spoke of, it's the regulation of the industry in general. The rates are going from 20 to 100 percent, which in these hard times we should say, 'why should we be increasing the rates of towing?' When the people who most likely get towed are going to be hard pressed to pay those in these hard economic times, Mr. Speaker. And like tax increase, fee increases, towing increase fits into the same category.

"Between 1991 and 1997, the CPI increased 18 percent above the 20 or 25 percent that is in these increases. Land prices and rents have gone down, and I have not seen salaries that increased 20 to 25 percent as in this

bill. In fact, we are the lowest in per capita income increase over the last five years in the United States.

"One of the things that this bill does is to even have a difficult hookup fee, which means if you have one of those other than normal cars, then they charge you an extra amount of money. But the one that takes the cake, Mr. Speaker, is on page 2 of the bill, lines 1 through 3, and it says: 'When the tow occurs between the hours of 6:00 o'clock in the evening and 6:00 o'clock in the morning, the towing company shall be entitled to an overtime charge of \$15.'

"Six o'clock in the evening is a punitive time? I mean, if it was going to be punitive, we could say at least midnight to 6:00 o'clock in the morning. But this reflects almost a project waiver agreement, which is the government getting in, conducting, if you will, and controlling industry rather than have the market do that, which leads me to my last point about the regulation of this industry.

"We have an airline industry that's been deregulated. We have rates that are now at the 1978 rate. We have a capacity to have and deliver, on a free market basis, services to the American people on the best and the cheapest and the most qualitative free market way. In towing, Mr. Speaker, we don't have that. Unless we look at this meaningful example as the only example in Hawaii, we have to recall that Hawaii is the only state in the nation that has not deregulated ground transportation. The other state's commerce commission in 1995 was disbanded and Senator Inouye..."

Representative M. Oshiro then rose on a point of order, stating:

"The current speaker should contain his remarks to the bill."

Representative Ward responded:

"Mr. Speaker, giving historical examples are not relevant according to the Majority Floor Leader. The fact that we are exempted, the only exemption in the nation, from free market forces in ground transportation and assuming towing is the same as free ground transportation.

"We have, like many places in the Third World that we make fun of, given monopolies, given special areas where we control the prices whether it's commodities, fees or otherwise, and we haven't let market forces prevail. Mr. Speaker, I think we have to get away from this. We have to get away from the idea, and I know the Majority Floor Leader might stand up on this one also, giving monopolies to cruise ships that have for 50 years..."

Representative M. Oshiro then rose on a point of order.

Representative Ward asked:

"Was that predictable or what?"

The Chair interrupted Representative Ward, stating:

"You are out of order, and it was predictable."

Representative Ward continued, stating:

"Mr. Speaker, I'm not saying to make villains out of the tow companies, but it's symptomatic of what we're doing in Hawaii. Rather than freeing up the private sector, we're constraining them by being 'big brother'. And we know best. We know how to vision the market rather than letting these market forces, those who can tow

quicker, faster, and cheaper, let them do the towing rather than we saying: 'it's going to cost you about \$100 to tow your car.' Because when you look at what's in this bill, that's how much it's going to cost. With those reservations on rates and regulations, Mr. Speaker, we can do a better job. Thank you."

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

"Just some brief comments. I think we need to remember that towing companies have not had their fees increased since 1991. That's about seven years ago. These towing companies are a part of the small business in Hawaii. And as such, I think they deserve to be able to charge an appropriate amount for their services. If their services are deemed too high, then people who have their cars stalled or their motors konk out on them probably will not seek their services.

"I think we need to remember that there are cars which are also not towed by a tow company because we request it. They did some research as a comparison to other states and we looked at San Francisco. I think the towing fee for private property is about \$95. Hawaii's present fee is \$40, Mr. Speaker, and they're promoting to raise it to \$50. In Orlando, Florida, another tourist destination, the fee is \$85. We are proposing again, Mr. Speaker, to raise it to \$50.

"There's also some comments regarding the use of a dolly for the specialized tows. Well, in Orlando they add an additional \$30 to \$85 fee. We're proposing a fee for the use of a dolly from \$50 to \$70. Let's look at Las Vegas. They charge \$145 for the use of a dolly. These are just a few examples, Mr. Speaker, and I understand that in talking to a friend in Seattle, you can pay upwards of \$200 for a tow. I think that this bill also adds a feature that we missed the first time. With this bill, you can pay and get your car back by credit card. And also there's a requirement for those towing companies to have an ATM machine there so that if you have an ATM card with you, you can pay in cash. For that reason, I urge all members to support this bill.

"Thank you, Mr. Speaker."

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

"We made the rates. The towing fees may not have been adjusted since 1991, but I don't think there are very few people in this State that have had an increase. Since 1991 the economy has been in sort of a 'freefall' and things have not improved. This is not the time to increase the fees to the people in this State.

"I was looking at some of the comparisons and it's not always 'apples and oranges.' While San Francisco charges \$94.75 for a tow charge, they don't have an additional charge for using a special dolly, and they don't charge mileage. So at the present rates, you might be looking at Hawaii being off by about \$20. But overall, since they're charging every step of the way, it's going to cost every man, woman, and not children, they're not driving yet, an extra \$20. Of course, we don't always call for a tow truck when we're in trouble.

"If we have the misfortune of having parked in a place where 3:00 o'clock you're going to be towed away, you're towed away. I will have to say 'thank you' to those that drafted the bill that they did take the... the DCCA, when they testified on this bill they didn't take a position. They were not particularly in favor of raising the fees, but they were not against it. Their concern was that the cars that don't have a high value, people in a low economic

status have a hard time paying or coming up with the cash to tow their car out and every day they don't tow it, they're adding more money for the storage.

"Eventually, you get to the point where it's not worth getting it out because the car is not worth \$200. So by adding that amendment that you could use credit cards or checks rather than just stick with cash, that will be helpful to people. But I still see this as punitive and certainly not helping the people and not lowering the cost of living in Hawaii.

"Thank you very much."

Representative Takai then rose to speak in opposition to the measure, stating:

"Just to briefly point out, my friends and I have gone out July 1, 1991, and went back to our cars parked at the University and realized that our cars weren't there. About a month before that another friend of mine got his car towed, the cost was \$50. The cost after July 1, 1991 jumped from \$150. I think increasing the charges for towing, the use of a dolly, storage fees and the like is not the concern I have. I think the concern that we have, in regards to this bill, is the mileage charge. We're increasing it from \$4 to \$5.

"Now many people, many private businesses, contract with particular towing companies, and in this case was Ace Towing at Sand Island. And I think it was about 10 miles. But just imagine, a tow from the North Shore of Oahu all the way to Sand Island -- 20, 30 miles at \$5 a mile -- it starts adding up. And I think that's the concern that I have in regards to this bill.

"I have not heard of any towing company that's going bankrupt or going out of business because of the lack of business. As a matter of fact, my understanding is there's a lot more cars being towed now because there's a lot more cars on the road as there were in 1991. So I don't think these increases in fees are necessary.

"Thank you, Mr. Speaker."

Representative McDermott then rose to speak in rebuttal, stating:

"Mr. Speaker, this is really a no brainer. We're raising the cost for working families, and I'm shocked when Representative Takai and I agree on anything so I had to rethink my position. But, I say it, he's a very good friend of mine -- and with these charges, they're probably \$80, \$60, you say \$120, he's right, it's mileage. And to look our constituents in the eyes and say: 'well, they didn't raise the towing charges but hey, we're going to hook you up. We're going to put an ATM at the tow wagon place for you. Don't worry about it.' And then I would bet, Mr. Speaker, some of those ATMs want a \$2.50 surcharge just to get your money out. For the people of Hawaii, Mr. Speaker, no increase in towing fees. Thank you."

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

"First of all, Mr. Speaker, I think the two previous speakers did point out and illustrate the fact that towing companies aren't going to be a most popular kind of business because they have to tow cars away and people get mad. So already you're dealing with a situation where you're dealing with companies or people who don't want to pay because they got their car towed away. So they're not going to be the most popular kind of people. But the fact still remains that towing companies haven't gotten their rates raised since 1991, and that our prices

now can be comparable to other municipalities, other states, other counties.

"I also want to point out, Mr. Speaker, that the DCCA, in fact, did give us language in this bill to ensure that, especially on the Neighbor Islands where you don't have towing companies available all of the time, that they have to make special calls. That on the Neighbor Islands, they can even charge more because of the inconvenience to the towing companies to do their job. For example, when a car falls into a ravine or a cliff. So the DCCA, in fact, was concerned not only about making sure we have equity in this bill, but ensuring that there is equity beyond the prices here in the bill in extenuating circumstances.

"I want to point out that we have language in here, which was worked out by the Conference Committee, regarding credit cards and ATM machines because we understand that people may not have cash on them all the time now. So all of these factors have been taken care of, but if you just say to merely raise something is not good, I think that kind of argument doesn't go far enough here in this particular bill or bills of this nature.

"Thank you, Mr. Speaker."

Representative Ward then rose to speak in rebuttal, stating:

"Very briefly in response to the last speaker and the Majority Floor Leader. Mr. Speaker, the towing companies are not the problem. It's the way we have structured government control on them. Small business is not the problem; in fact, this is a small business measure. If we were to allow the small business community to express its entrepreneurial energy, we would have a tow truck on every corner; not the way it now is a controlled, selective, quasi-monopoly by which we give our cares a raise.

"The way that you allow the small business community to grow is to allow the opportunities to participate not with barriers, not with controlling the marketplace -- price controls work nowhere in the world. What we need is to allow a restructuring and what we've got here is a hunkering down at \$5 a mile overtime. We've got it almost to where we've got, as I said earlier, a union contract with the towing companies. Mr. Speaker, that's where small business is the solution, and for the lower cost of living the only solution. 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. 2361, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE TOWING FEES," passed Final Reading by a vote of 33 ayes to 15 noes, with Representatives Ahu Isa, Fox, Halford, Herkes, Kahikina, Kawanakoa, Marumoto, McDermott, Meyer, Morita, Pendleton, Takai, Thielen, Ward and White voting no, and Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 73 and H.B. No. 2837, HD 1, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2837, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL DISCIPLINE," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 74 and H.B. No. 2847, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2847, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga rose in support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise to speak in favor of HB 2847 HD2, SD2, CD1. Mr. Speaker, the protection and preservation of our islands' beauty from illegal and unsightly open dump sites is an important general welfare concern. Open dumps are more than vacant lots where uncaring residents dump their rubbish. Open dumps are essentially illegal landfills, ongoing, intentional operations where usually the hauler, operator, and/or landowner are conspiring to circumvent environmental laws.

"Many of these sites are over five acres in area and 20 to 30 feet deep. Located far from public roads and behind gated entries, they are difficult to identify and shut down. While the vast majority of material received by these operations comes from construction sites, they often receive hazardous materials which are handled inappropriately and can cause even greater impacts on public health and the environment. In addition, as has been evident in recent years along Oahu's Leeward Coast, these operations are often the site of hazardous landfill fires; polluting the air and causing the evacuation of surrounding homes.

"Intentional dumping at an illegal landfill site generates revenue for the operators, and therefore gives them incentive to continue this illegal activity. Imposing penalties for knowingly dumping at such facilities will discourage haulers and contractors from using illegal landfills as a cheaper alternative to legal landfills.

"As the requirements for the environmentally sound management of solid waste have increased, the costs of waste management have also increased. This increase in cost has resulted in a larger number of commercially run, unpermitted disposal facilities in the State. These open dumps have no environmental controls and often result in the contamination of local surface and groundwater.

"The intent of this bill is to discourage illegal open dumps by increasing the penalties for operators and users of illegal open dumps. This bill provides the Department of Health better enforcement tools by establishing jail terms for illegal operators of open dumps, and allowing the courts to revoke a contractor's license or a waste hauler's PUC license for taking part in the operation of an open dump. These penalties would apply to those who knowingly violate environmental prohibitions against the unpermitted disposal of solid waste, causing major impacts to our land, groundwater and surface waters.

"The stiffer penalties would provide a 'level playing field' for the legitimate waste management haulers and construction industry, who presently use permitted facilities to properly dispose of their waste. These legitimate companies are losing business and jobs to illegal haulers who charge lower disposal fees because they are using unpermitted illegal open dump facilities. Furthermore, stiffer penalties will be more equitable for legally permitted landfills and county agencies that operate legal facilities and pay the costs of legal disposal. This bill would go a long way to level the playing field for all companies and industry resulting in the better protection of our general health and welfare and the beauty of our State. For these reasons I urge my colleagues to 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. 2847, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE MANAGEMENT," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 75 and H.B. No. 2506, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2506, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. I hope we'll have an equally invigorating debate about the demerits of House Bill 2506, the non-judicial foreclosure bill, and I'm rising to speak against that bill, Mr. Speaker.

"This bill is going to affect primarily the elderly who have worked their whole lives to be able to purchase their home. It sets up a process where the court is not involved, which means that a lender could foreclose upon a home without the court ever being involved in that process, and the court being able to provide a fair forum for the homeowner.

"The rush to foreclose measure puts convenience above fairness and equity in foreclosure proceedings. Mr. Speaker, I'm not talking about lenders like the Bank of Hawaii or First Hawaiian Bank. I'm talking about more questionable lenders who are going to use this process to be able to take a person's home away from the family that has worked their whole lives to purchase that home.

"In essence, the bill requires homeowners to file their own lawsuits, if they understand how to do that or if they stand a chance of preventing the foreclosure, even under circumstances where the lender may have billing errors. It's a daunting task. I think anyone sitting here can realize how daunting that would be for a senior citizen who doesn't really understand the legal process to go out and file a lawsuit trying to protect their home. They must suddenly gather sufficient resources probably to hire an attorney because I don't think they could do it on their own. And they would have to pay hefty legal filing fees.

"The burden becomes even greater if the Legislature passes a proposed measure later to raise the judicial filing fees, but I won't be talking about that right at this moment. So the Majority Floor Leader can stay seated.

"Powers over foreclosure laws in other jurisdictions have resulted in a license to steal. I wish you would remember those words, a license to steal. That's what this bill is for those questionable lenders. In states such as Georgia and California, non-judicial foreclosure has unwittingly promoted home improvement scams. Typical scam artists convince some unsophisticated homeowners to use mortgage property as collateral for repairs or improvements. The next thing the homeowner knows they're out on the streets. They've lost their home. Experience dictates that the likely targets of these predatory loans are the poor and elderly members of society. In other words, this law puts the already disadvantaged at a greater disadvantage.

"Efficiency in the legal system, although an admirable objective, should not restrict access to the court and eliminate impartial resolution of mortgage disputes. This bill mainly compounds existing party inequities and streamlines the process of losing one's home all in the name of convenience for lenders. I think we're getting our legislative priorities a bit confused, Mr. Speaker, and I would hope that the Governor would veto this bill if the bill does get passed.

"Take a look at the heated discussion we had a few minutes ago about towing fees. Take a look at what we're going to be allowing here. This isn't consumer protection. This is abuse of the consumer by unscrupulous scam artists, lenders who are using this or will be using this tool to take a person's home. I just don't understand why we're passing it, Mr. Speaker. I wish we could have equal opposition to this like we did with the increase in towing fees. Thank you."

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

"I rise in opposition to the bill not because I oppose towing, but because of the demerits of this bill. But I would request that the remarks of the previous speaker be entered as the preface to my remarks," and the Chair "so ordered." (By reference only)

Representative Ward continued, stating:

"Thank you, Mr. Speaker. If we look at the legal notices in the newspapers, the two major dailies primarily feature two types of notices that seem to hit everyday. One is the going out of business, the bankruptcies. And secondly, it's the foreclosures. This bill hits those who are young and old, those who are in a precarious position because of the economy.

"The timing of this bill is untoward entirely. And because it would facilitate these foreclosures, even make them easier, quicker and for the sake of those foreclosing, cheaper, what we've removed is that third party objectivity. Mr. Speaker, we are not talking about a car that gets towed away. We're talking about somebody's house. We're talking about the American dream, the piece of the franchisement of being an American.

"But what we have to look at is Hawaii has, unlike the mainland, 48 to 49 percent of the people owning their own homes. Mainland Americans have 60 percent home ownership. We, with this bill, would make it easier to take that home or the castle that we say is the 'American dream', would be otherwise more difficult to take away.

"Mr. Speaker, I don't think we need to facilitate in taking away home ownership. We need to facilitate and encourage the possession and the keeping of one's home. So this bill is counterintuitive. It's untimely. And I think for the sake of those young people who are going out to Kapolei and having their foreclosures hit them left and right, or for old folks who may happen to have one of these happen to them, I think it's a step backwards even though it's got facilitation and efficiency as its motivation. What the downside will be is that it's going to take home ownership away from people, which is what everyone in this House stands for or everything in America stands for. And that I think, Mr. Speaker, we should stand for also. Thank you."

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

"In brief rebuttal to the remarks made by the previous speakers, I believe that a careful study and review of this

bill would indicate that it would clearly favor some important consumer interests.

"Testimonies in support of this bill clearly indicated that we have a problem with our existing State foreclosure process. The process is taking anywhere from six months to two years to complete. In the meantime, the cost of continuing a foreclosure has been quite substantial during that period of time. And who pays for this? The banks, the shareholders, the bank depositors who ultimately are losing out because of the long and lengthy foreclosure process.

"I'd also like to point out that this bill has strong support from the community associations. Because now if a foreclosure procedure takes up to two years to complete, that means you've got abandoned properties that community associations are very concerned about. Also, during that period of time the associations are not able to collect whatever assessments that the owner of that property would otherwise be responsible for paying. And again, who pays for this? These are the members of the community associations.

"Now I recognize the sensitivities and concerns of those who have opposed this bill. And I'd like to note that careful reading of the bill would indicate that what we tried to do is to strike an appropriate balance between the need to streamline our foreclosure process on the one hand, and to provide ample safeguards to borrowers on the other hand.

"This bill contains substantial number of safeguards. The bill contains the safeguards that were proposed by the House in regards to notice to the borrower, advising the borrower of his right to bring a legal action to contest a foreclosure action. In addition, we have also preserved the legal rights and amenities of borrowers who may wish to challenge a foreclosure in court, but we have even gone beyond that.

"If you look at the Conference Draft 1 that's before you, we adopted two additional consumer safeguards that were proposed by the Senate. One additional consumer safeguard would be to require that the borrower has to sign off in the conveyance of documents in regards to the conveyancing of title to the purchaser of a foreclosure property before the sale can be completed. So this gives the borrower one additional opportunity to review the terms of the sale to ensure that the terms are fair and proper. So that's an additional consumer safeguard that empowers and protects the right of borrowers.

"In addition, this bill will only apply to mortgages that take effect subsequent to July 1, 1999. So for many of the mortgages that are currently in place, this foreclosure procedure would not be applicable. So given the fact about the balancing concerns, I think it's a fair and balanced bill and is worthy of the support of this body. Thank you."

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

"Mr. Speaker, I think the Chair of Consumer and Protection has carefully articulated that this bill seeks to strike a balance. I've been open to discussion and to the testimony, and serving on Consumer Protection has afforded me an opportunity to be educated on this particular issue. I understand that reasonable minds can differ on this particular bill and some of the concerns of my colleagues here in the Republican Caucus are not without merit. And I should point out some things that we need to be aware of.

"I think on balance, Mr. Speaker, I think this bill seeks to strike the right balance between trying to save money, as Chair Menor pointed out, with the full blown judicial procedure where there are added costs, and that money comes out of what would otherwise go to take care of the debt. Also, there are safeguards here and some of those have been pointed out. I think, to me, it's important to note that the homeowner or the persons living in the home actually have a chance to sign off on the terms, to take a look at what went on. Also the fact that this operates only in a prospective manner, in a fashion that affects only future foreclosures. Also to the fact that there is indeed access to the courts. If a person wants to, they have the right to file a lawsuit and a person who signs a mortgage in the future, to which this bill would apply, would be aware that they have the right to legal action. I think that's also important.

"Also found persuasive is the fact that community associations supported this and again for the reasons that Chair Menor has stated. Many of the community associations are concerned about abandoned homes in their various areas. And we want to expeditiously, but in a way that takes into consideration all of the concerns of those parties, we want to address these kinds of situations. And again, I think this bill seeks to do that. So for those reasons, I support this bill though I have some concerns.

"Thank you, Mr. Speaker."

Representative Menor then rose to speak in rebuttal, stating:

"There's one additional point that I did not make which I think is also very critical in regards to the evaluation of the bill. The opponents of this bill have cited the case in Georgia. Well, I think if you look at the case in Georgia that had been cited, those cases involve shady contractors who tried to take advantage of their customers by extending these home improvement loans on very unfavorable terms. And when those customers were not able to pay off on their loans, the shady contractors then attempted to foreclose on those loans pursuant to a non-judicial foreclosure process.

"If you look at this bill carefully, this bill is limited to those financial institutions that are regulated under the federal and State laws. And there are very strict requirements in regards to the practices of these institutions that they need to meet under those federal and State laws. And I think that that's another critical difference between this bill that's before us that we should vote in favor of versus the other bills or laws in other states that have caused problems to consumers. Thank you."

Representative Thielen then rose to speak in rebuttal, stating:

"Thank you, Mr. Speaker. I appreciate the Consumer Protection Chair's comments in support of the bill. I still disagree with him and I disagree with the bill. I'd also note if you members would look at the Conference Committee Report that one of the Senators signed 'I do not concur' with the bill. And it's obvious that he didn't concur because of the concern that the consumer is going to be hurt by this legislation.

"When I was a legal aid attorney, Mr. Speaker, I was helping an older Hawaiian family that had received a notice of foreclosure. The wife was so concerned and apprehensive about this that she hid the notice under the mattress hoping that it would go away. She thought if it was out of sight that they wouldn't have to deal with it. They couldn't come and take their home. Only because

the court was involved were they able to ultimately be able to save their home and work out a repayment schedule with the lender. Only because the court was involved. Because the court was the independent, impartial body that could take a look at all of the circumstances. So that is one Hawaiian family that did not end up out in the streets.

"I think when we pass this bill, we're going to set a process in motion that will prevent Hawaiian families and other families from being able to retain their homes. We need the courts in this process, Mr. Speaker, and this is not consumer protection. This is expediency for the banks. I'm sorry, I come down on the side of the homeowners and listen to their concerns. Thank you."

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

"Mr. Speaker, I also have some experience as a legal aid attorney. In fact, I spent three and a half years there as an attorney in enforcing some of our State and federal consumer protection laws. I'm very familiar with the defense of foreclosure actions especially when it involves something so near and dear to a person's heart and one's family.

"When a person is served with a foreclosure notice and process, it becomes a very frightful experience. It becomes a very long, drawn out experience of many months. And each day there's a lot of anxiety involved in the process. I had the opportunity there to hold the hands of many and counsel many as we went through this process. And fortunately, we had the opportunity to look through the documents at the time and study them and review some of the terms and conditions of the loan agreement.

"That's part of my reservations, Mr. Speaker, that in this bill, this act that would be created would essentially wipe out some of these, what I call 'diamond claims', under the federal or State law that would allow a foreclosing party to raise, at a proper time in a court, these things probably not known to a lay person. Indeed, many attorneys themselves are unaware of the federal laws, rules, and regulations that offer these protections to our consumers. That's one of my concerns.

"Another concern I have, Mr. Speaker, is that in this bill, although it's fair to address the situation of allowing for inquiring open house to a prospective bidder and buyer, it leaves the ultimate decision to have an open house subject to the cooperation of the mortgagor. In other words, if the bank or lender feels that the mortgagor is not cooperating with them, they may be able to cancel the open house. I have concerns with that.

"Finally, Mr. Speaker, there's been some mention about this bill giving a right to the borrower or homeowner to go and file an action in circuit court to bring this before the court and have it supervise the proceeding. I find that very strange, Mr. Speaker. In fact, I don't see that ever happening in this case, that if I was being foreclosed upon, I would go to circuit court and file a foreclosure action against myself. This doesn't seem to fit with my experience in these matters, Mr. Speaker.

"On the other hand, Mr. Speaker, if this can expedite the resolution of this process and thereby extinguish any outstanding obligation of the mortgage document, then maybe on balance it's okay. But I still have those concerns and maybe we'll look at it in the future.

"Thank you, Mr. Speaker."

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

"I'd like the remarks of Representative Menor as if they were my own," and the Chair "so ordered." By reference only)

Representative Cachola continued, stating:

"But let me add one more item that we should consider, particularly condo owners. Current law requires that condo owners' association has to pay the delinquent maintenance fees for all foreclosed property. And it takes about six months to two years to do that.

"What we are trying to do is try to cut down the maintenance fees of foreclosed units that are going to be paid by the rest of the condo owners who are up to date in their payments. As you all know, we are trying to strike a balance to see if there is a way we can help consumers, condo owners, and property owners. This is not a bill to steal away properties owned by our citizens. It's one way to see if there's a way we can help them out. For those reasons, Mr. Speaker, I speak in support of this bill."

Representative Ward then rose to speak in rebuttal, stating:

"Two comments in response to the Chair of CPC from Mililani. First, regarding the 'scam artist'. According to recent discussions with the Federal Trade Commission, Georgia is not the home of only the 'scam artist'. It has nothing to do with the previous origin of the Trade Commission that I was speaking of. They are a national phenomenon -- 'scam artists' trying to use legitimate financial institutions the same way that drug dealers use legitimate financial institutions. So to say that we're going to block people from conning people out of their houses when they fix their roofs, because they're going to go through legitimate financial institutions or they're not going to be able to do is to say that drug dealers never use big banks and legitimate banks in Hawaii to launder money. It just doesn't wash.

"Secondly, Mr. Speaker, I ask each of us: Who, in our districts, has abandoned houses? I had in my district, in Mariner's Ridge, a Japanese man who bought a lot of houses in the 80s and he abandoned them because he didn't want any renters. When you buy a house for \$250,000, you just don't jump out of it. Abandoned houses is another 'bait for the tiger'.

"And lastly, Mr. Speaker, is this issue that the condominium associations are going to be cheated. The first right of a lien, whenever any property is sold, goes to the condominium association. They are guaranteed to get every penny that are owed back. So if we're doing this to facilitate otherwise someone's going to be cheated by it, I think we're missing the point. What otherwise again is the foundation of the American dream is the house. And we should make it harder to get houses taken away from people rather than easier. And that's why this bill goes in the opposite direction.

"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. 2506, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Final Reading by a vote of 42 ayes to 6 noes, with Representatives Halford, Kawanakoa, McDermott, Morita, Thielen and Ward voting no, and Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 76 and H.B. No. 1099, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1099, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL THERAPISTS," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

Conf. Com. Rep. No. 77 and H.B. No. 2843, HD 1, SD 2, CD 1:

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

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

"Just a very quick word. I believe that this bill sets the framework for some very future, forward thinking vision regarding many of our inmates who presently are not receiving the kind of substance abuse assessment and treatment that we all know that they deserve. I think this bill provides the framework for the Corrections to go after existing federal funds. And I'm very hopeful that in so doing, we may begin to see less repeat offenders.

"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. 2843, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," passed Final Reading by a vote of 48 ayes, with Representatives Chang, Kawakami and Say being excused.

The Chair directed the Clerk to note that H.B. Nos. 92, 2332, 2361, 2837, 2847, 2506, 1099 and 2843 had passed Final Reading at 12:30 o'clock p.m.

At 12:30 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 1:40 o'clock p.m., the Vice Speaker assumed the rostrum.

Conf. Com. Rep. No. 78 and H.B. No. 2852, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2852, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, we all know that we have the potential to be the health care center of the Pacific. This bill allows us to even go further than that in that we can teleconference not only any place from Honolulu to any island or any hospital to another hospital, but literally to any other part of the world. In fact, even as we speak, the Tripler Hospital has been treating people in Micronesia with the telehealth. So it's proven it's very effective and it would do great things.

"The only thing is, I think like in session, it's not complete. There's something that's slightly missing and that's just regarding the liability when you put somebody on the camera and when they give counsel. Where does

the buck stop? In the usual medical profession, it's with the doctor, but this one has the thing slightly different because it's been broadened not only to include positions, but also healthcare professionals which would mean nurse practitioners, physician assistants, etc.

"The question is: 'Who can the patient look for when problems in telehealth occur?' The bill had something in it. It was taken out. I think it's a small flaw, but it's something that is a great step forward for technology in telehealth. But that liability issue needs to be revisited and I'm hoping that will be soon; otherwise, it's a great step forward.

"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. 2852, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TELEHEALTH," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 79 and H.B. No. 3528, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3528, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I'm not a lawyer. There is, however, a book written about the way the law runs our country. It's called, 'The Death of Common Sense.' I'm very concerned about this bill.

"There's a provision in here that you can't look at the criminal record of somebody who's applied for a job until you've selected that person. At that point, you're allowed to look at their criminal record. And if at that point you discover that the person has a problem, you then decide not to hire the person. It's such a totally obvious thing that the reason you didn't hire them was because you checked their criminal records.

"So you're clearly opening up yourself to some real serious problems over this term 'rational relationship'. You're going to have to go into court and you're going to have to establish that there's a 'rational relationship'. So it's going to really work against what is a normal procedure for an employer and that's to look at somebody's criminal record. I mean that's just basically a part of your life. That's just one of the things that you have to declare when you apply for a job, but here it doesn't come into play until you've actually hired the person.

"And then there's another problem. You can't search criminal records out for more than 10 years. Well, we've had 20 children murdered in this State over the last five years since 1992. The average sentence for these people is 7.5 years. So you can try to hire somebody to take care of a child care center who's actually a murderer, and if that conviction took place more than 10 years ago that information is not available to the person that is hiring for child care purposes, because more than 10 years out none of that information is relevant.

"So I'm deeply concerned about the way this bill turned out. Employers should have the right to know about what the people who are applying for jobs have in their backgrounds. And that should be a free and clear right.

I'm disturbed about the compromises in this bill. Thank you."

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

"Mr. Speaker, this is a real giant -- giant momentous step for employers who want to ensure the health and safety of all of their employees. You've got to remember what we have now before this bill. We had absolutely nothing. No protection for the employer. Can't even ask about anything to do with past records. Now we have something. We have something.

"The employer, upon conditionally hiring the employee, can at least then ask the employee, 'Terrance, I want to know if you have any convictions within the last 10 years. You tell me.' And if 'yes,' and the conviction is for something to do with theft or something to that effect and the employee would have been hired to take care of the books and records of the company, for example, the 'rational relationship' between the job and the conviction is the lowest standard you can look at. We took that standard because 'rational' is a lot lower than 'substantial.' 'Rational' is a lot lower than 'reasonable.' 'Rational' is a very, very low and fair relationship to establish.

"I want to tell you that when you talk about 10 years look back, I mean we've got years in the statute of limitations and everything we do, whether it's looking at different criminal laws, or civil laws, or when you can sue, everything has a statute of limitations. I believe that one thing the former speaker doesn't recognize is that everything is compromise -- everything. We had the deal cross already with the table, with certain Senate conferees who wouldn't want this bill. In fact, didn't even have this bill in their bill. They gutted our bill. They put in another bill. This is a momentous step, a very momentous step for employers for fairness and equity.

"Thank you, Mr. Speaker."

Representative Kawanakoa then rose to speak in support of the measure with "strong" reservations, stating:

"I have to applaud the Chair of the Judiciary Committee for having a measure before us at all. I'd like to make some clarifications. You know in the past, I've introduced bills to help prospective employers look to the prospective employees and ask questions that are fair, that are rational. I think we're off on the right step, but there are some drawbacks to this particular measure. I'm afraid that, perhaps, some of the Senate members on the Conference Committee are adamant in requiring some of these provisions. By the same token, I think as the House of Representatives, we have to make it clear that this particular measure only goes halfway.

"In particular, as the good Representative from Waikiki has mentioned, he's not an attorney. Well, I am an attorney. I happen to have opened a small business downtown with my wife and operated this business. And we understand the difficulties of asking questions of employees. Because as was mentioned, the common sense in our business practices have been taken away from business owners, from employers because of the fact of the litigiousness of our State and of the nation for that matter.

"I would simply note that this particular whole draft, this conference draft, may have some provisions that are difficult to comply with. For example, on page 1, on line 4, it says that 'subject to subsection (b), an employer may inquire about...an individual's criminal conviction record concerning hiring, termination, or the terms, conditions,

or privileges of employment.' But then it goes on to say, 'provided that the conviction record bears a rational relationship to the duties and responsibilities of the position.'

"Well, is this going to cause a potential grievance against an employer because they inquired about someone's conviction record? And they say: 'Yes, I was convicted of stealing.' And you go out and you find out that doesn't have a 'rational relationship' to the duties and responsibilities for which this person is going to be providing in his or her job, then you may have a conflict because how can I make the inquiry? If I can't even begin the inquiry without having a 'rational relationship' of the crime, how do I know there's a 'rational relationship' unless I ask?

"So this may be putting our employers in a 'catch-22' that if they do inquire and they find out that it's not a 'rational relationship', then they're going to be perhaps smacked with a lawsuit with regard to improper hiring practices. That's a concern I have. I also have a concern that was raised by the Representative from Waikiki with respect to the time limit. I see no rational basis for limiting it to 10 years. Anybody who has made a grievance in our society, has been convicted of a crime, should be able to come forward with it and make the changes in their life and move on with their life. And in that respect, not try to hide it but to simply be open and honest with whatever had occurred and move on. I think us limiting it to 10 years is perhaps an oversight and maybe will come back to bother us.

"Thank you, Mr. Speaker."

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

"For those members who are reading the bill, you'll notice the committee report, there's certain people that weren't real happy with this bill as it was written. I happen to agree with the Minority Leader that I don't think that this bill goes far enough, and the Representative from Waikiki. But by the same token, Chair Tom negotiated very hard for this bill because, as most of here know, our Senate counterparts didn't want this bill. We could call names, but I guess we're not supposed to here.

"This bill will not complete. . . maybe doesn't go far enough to allow somebody to hire when they hire a person, hire a worker to be able to determine the type of character. And I think the criminal record of a person also helps to determine the type of character. This particular bill says that upon only those convictions and upon hiring the person and the past 10 years. For those members who weren't at the conference meeting, that 10 year provision got stuck in the last two seconds. And that's because it came to the table with it.

"Now we felt it was fair if it was our only out to get the bill out. As far as the example that was given earlier, 'rational relationship', if the person is convicted of theft and the employer is concerned about the fellow employees, then theft has a definite bearing because employees that you hire you don't want them to steal from your fellow employees and not only from your own business. I feel there can be a 'rational relationship' to most things that crimes would come under. There's a strong concern and small and medium size benefit as to the relationships between employees, and I believe a person's criminal record would have a bearing.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I share many of the concerns, if not most of the concerns, articulated by the Republican leader. I think it's very clear that all of us in this chamber may have some concerns about the 10 years, also the 'rational relationship' situation. This didn't go quite far enough, but it's better than nothing. And in this imperfect world where we have to compromise on some of the provisions in order to get something, that's something we have to live with.

"I would like to speak to one other point as well. It would be well for us to remember that our floor debate is going to be something that attorneys in the future look to. We are creating an official record. The intent of this body, and I just wanted to make it clear that, at least for my thinking, that I think that pretty much any conviction would bear 'rational relationship' to job qualifications. For example, if someone were convicted of a violent crime or a crime where physical violence was committed against someone else, I think any employer who wants to keep his or her employee safe, any conviction like that would bear relationship on the employer/employee relationship.

"I also think that any conviction involving integrity, theft, anything like that, bears a 'rational relationship' to any kind of employee situation regardless of whether you're driving a truck or teaching kids. Also, DUIs, other kinds of things that bear on whether a person has propensity for playing fast and loose with the rules, or the person is civic-minded and understands that there are certain rules and behaviors that are required of all of us as citizens, I think any kinds of convictions that bear on those kinds of issues would be rationally related.

"And so I want the record to clearly reflect that just about any conviction, I think, if a person cannot live up to the rules established by the State of Hawaii, the rules which set forth what is acceptable conduct in our State, if you cannot live up to that and you commit a crime and are duly convicted, I think that is going to bear on the employer/employee relationship.

"Thank you, Mr. Speaker."

Representative Halford then rose and asked the Clerk to register an aye vote with reservations for him, and requested that Representative Fox's remarks be entered into the Journal as his own, and the Chair "so ordered." (By reference only)

Representative Kawanakoa rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa continued, stating:

"I'd also like the record to reflect that my concern about an employer, that they may inquire about a criminal conviction without concern for being sued, does not depend upon the provision that the convicted record rationally relate to the employment that is being sought. That would be my reason for voting yes on this measure. Thank you."

Representative Kawanakoa's additional remarks are as follows:

"This measure allows a prospective employer to 'inquire about and consider' an applicant's criminal conviction record, provided that record bears a 'rational relationship' to the duties of the job. I would suggest that only an inquiry will give the employer the ability to decide whether such a rational relationship exists. If he

can't ask -- how can he make a 'rational decision' as to the relevance of the record?

"The second provision of this measure is even more convoluted. The would-be employer can't even consider the conviction record unless he first offers the applicant a job conditioned on his record being acceptable. It seems to me we bend pretty far over backward to protect job applicants at the expense of our struggling small businesses -- never mind the legal implications of offering someone a job and then withdrawing it based on the relevance of a conviction record.

"Finally, why only 10 years? The relevance of someone's criminal conviction record and how old it is should be purely at the discretion of employers."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3528, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," passed Final Reading by a vote of 42 ayes to 4 noes, with Representatives Chang, Goodenow, Jones and Kahikina voting no, and Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

At 1:54 o'clock p.m., Representative McDermott asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:55 o'clock p.m.

Conf. Com. Rep. No. 80 and H.B. No. 2666, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2666, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, domestic violence has always been a primary concern of the House Judiciary Committee, the House of Representatives as a whole, and the people of Hawaii. We have heard too many reports about people being held hostage, injured, and even killed as a result of domestic dispute. With this bill, we have strengthened and improved our domestic violence laws to provide a fuller measure of protection to victims of domestic violence and to let the people know that this Legislature will continue to lead the nation in adopting progressive and effective laws to stop domestic violence.

"Among the many provisions in this omnibus measure, we have raised the penalty for a third conviction for abuse of a family or household member within two years of the second from a misdemeanor to a class C felony.

"We've imposed mandatory fines for TRO violations, ranging from \$150 to \$500 for a first conviction and \$250 to \$1000 for subsequent convictions. We have made sure that these fines will go into the spouse and child abuse special account to help victims of domestic violence.

"We've allowed for unlimited, and I repeat, unlimited, renewal of protective orders which are now just no more than three years.

"We've extended probation up to two years instead of one year for violations of temporary restraining orders and for convictions of abuse of family or household members.

"We've expanded the definition of family and household members to include persons who have a child in common.

"We've taken away a defendant's ability to make a deferred plea for violations of TROs or protective orders, and we've allowed judges to consider prior abusive or threatening conduct, rather than just recent acts, when issuing TROs, and likewise allowing the police to consider past harm when issuing 24-hour warnings.

"Under the leadership of Speaker Joe Souki, we have crafted a bill that takes a tremendous stride towards eliminating domestic abuse in our society. With the help and hard work of my colleagues in these chambers, we have worked out a bill that protects victims of domestic abuse while dealing strictly with abusers. Members, with your continued support, we will pass a bill that sends a strong and clear message that domestic violence is not and will not be tolerated in this State.

"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. 2666, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 81 and H.B. No. 2355, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2355, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Fox rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Fox's remarks are as follows:

"Mr. Speaker, I am pleased to support passage of HB 2355, relating to criminal trespass. The bill is a necessary attempt to protect property owners including condominiums with their common, privately owned areas from trespassers who enter private property to steal or commit other crimes. Under the outrageous State v. Sadler decision, the Hawaiian Intermediate Court of Appeals in 1996 held that criminal trespassers must be given a warning each time they come on the property. The fact that criminal trespassers had previously been warned, even the same day, matters not if they had left the property after an earlier warning. They must be warned again prior to arrest. And again. And again.

"Fortunately, the Legislature is willing to help out property owners by providing that the warning need only be issued once in a one-year period. The next time the criminal trespasser returns after receiving a warning, that person can be arrested. The bill represents a victory for common sense, for law-abiding people, and for safer homes, and an important defeat for criminal trespassers."

Representative Meyer then rose in support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker. I rise in strong support of this measure. HB 2355 SD1 HD1 CD1 addresses a growing concern in our State, particularly for businesses. Trespass has been

a continuing problem for commercial establishments in the State. Time after time businesses have been faced with unwanted trespassers and could do very little about it because the law was vague and difficult to enforce. With this bill the remedies are available to victims of criminal trespassers, the police can be called and the trespasser can be taken into custody.

"I know that this stronger law is long overdue, and I believe that it will provide some much-needed relief, particularly to commercial establishments where homeless trespassers have often caused loss of business because of their continued presence even after being asked to vacate the premises. For these reasons, I strongly support HB 2355 SD1 HD1 CD1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2355, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 82 and H.B. No. 2357, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2357, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INDEMNIFICATION OF COUNTY AGENCIES," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 83 and H.B. No. 2381, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2381, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, this is, in my non-lawyerly view, a very good common sense bill for dealing with a problem that has plagued the heart of our tourist industry for two decades and is getting worse year by year. And I want to express my highest appreciation for the Chair and Vice Chair of the Judiciary Committee for pulling this bill through. It was not an easy process and the changes that were made were rational and sensible. We've got a bill that the penalties are not stiff. The probation makes sense and the ability to extend the bill to other areas of the State is also a good provision.

"So again, my strong appreciation for the work that has been done by the Judiciary Committee and the Conference Committee in this area. Thank you."

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

"House Bill 2381, the Waikiki prostitution bill, I think all of us have to give a considerable amount of thanks to Chair Tom. This was a very tough measure to negotiate and the Senate saw fit to stick in whatever they wanted into their conference draft. But I must commend the Senate for finally coming to the realization that past penalties haven't worked, increased penalties haven't worked, so let's try something new. And this is a new thing we're going to try.

"One of the purposes of this bill is to require a mandatory minimum term of thirty days imprisonment for those convicted of street solicitation of prostitution, which is a petty misdemeanor.

"There may be some confusion about using the term 'mandatory minimum' because HRS Section 706-663 already provides that the maximum term of imprisonment for petty misdemeanors is thirty days.

"I just want to clarify and put this into the Journal to clarify that the intent of this bill is to require a person convicted of street solicitation to serve the full thirty days. There is no intent, I repeat, to have the person serve more than the maximum authorized term of 30 days. By capping the term of imprisonment at thirty days, the right to a jury trial should not be triggered. The intent of this bill is to not have a jury trial.

"Aside from that, those of you who are interested and read the bill, the back portion of the bill has some Senate language as to having the counties decide on having street solicitation. The only concern I had with that is I don't believe that we have any other county in this State that has a Waikiki aside from Oahu.

"Thank you, Mr. Speaker."

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

"While the rest of the bills that are supposedly suppose to help our economy languish in conference committees, I'm very pleased to see that this one is emerging. You know on its face it's a crime bill, Mr. Speaker. But this measure will go a long way in improving the attractiveness of Waikiki to visitors that are directly helping our economy.

"The ERTF spoke about sending messages to those who would invest in Hawaii. I concede and strongly support and suggest that we send this message to all potential visitors, that we simply will not tolerate violence and prostitution and our guests being assaulted and harassed by prostitutes in Waikiki.

"It's an excellent bill, Mr. Speaker, and I commend all those who worked on it. 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. 2381, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 84 and H.B. No. 2496, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2496, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Arakaki then rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I'm specifically opposed, in this bill, to the transferring of the administration of the indigent legal assistance fund to the Judiciary. It's now housed in the Office of Community Service. And the Office of Community Service has always facilitated and enhanced the delivery and coordination of affected programs to assist the poor and those in need. They've always executed this responsibility effectively.

"Presently, OCS administers 68 contracts with the widespread network of 32 private providers throughout the community. And they also have provided legal services through the Legal Aid Society, I believe, for over 30 years, and through Na Loio No Na Kanaka for the past 12 years. I guess one of my fears is that by transferring it to the Judiciary, I think there may be a tendency to look to legal remedies first. And I think in the case of many indigents, and especially the immigrant population, sometimes there are social answers that can remedy the problem. I think these problems need to be looked in the total context and look at which types of remedies are the best and it's not always the legal. So hopefully, we can reconsider what this bill proposes.

"Thank you, Mr. Speaker."

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

"I have comments which address a point which is separate and distinct from what was just raised. As we all know, Mr. Speaker, this bill extends the sunset date for collecting circuit court filing fee surcharges on civil cases. And this surcharge is designed to create a source of funding so that the indigent can avail themselves of the legal services. I think it's good that we have found a way, a mechanism to provide our legal services to the indigent. If they are looking for legal services, this allows them to be able to have funding for those services.

"My one concern has to do with the way in which we raise the money. The surcharges on civil cases again are raised..."

Representative M. Oshiro then rose on a point of order, stating:

"There's nothing in this bill regarding the surcharges that are currently imposed through this program."

Representative Pendleton continued, stating:

"Mr. Speaker, this bill is extending the present policies so I think my remarks are germane. Again, my concerns. I'm not voting with reservations or in opposition. I support providing these legal services to the indigent. My concern has to do with the present policy which we are extending and so it's appropriate for me to speak to that.

"The present policy -- the way the surcharges are raised -- is, if you go to file a case, you pay the surcharge. They don't ask you what your income level is. They don't ask you what your ability to pay is. They don't ask what your tax forms are like. So again the surcharges are levied without regard to ability to pay. That can be good and bad. If we were to find a different funding mechanism, we might be able to provide these services in a fashion which raised the money with regard to a person's ability to pay. Because presently, you might have hardworking, middle income or lower-middle income families having to use the court system which are paying into this fund to pay for the indigent.

"And again, we don't want to pit people who are in a real tough situation against those who happen to be in a tougher situation. We want to try and raise the money in a way which takes into account, I think, the ability to pay. So those are some of my concerns although I am glad that we will be continuing to provide legal services to the indigent. I think a fruitful discussion in the future might be helpful as to how we raise the money to do this particular service.

"Thank you, Mr. Speaker."

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

Representative M. Oshiro's remarks are as follows:

"I vote in support of HB 2496, HD 2, SD 1, CD 1, which allows for the continuation of the Indigent Legal Assistance Fund (Fund) and thereby assures another source of funding for Hawaii's qualifying nonprofit civil legal service organizations that provide direct civil legal services to our indigent population.

"Over the past years, many, if not all, of the providers of civil legal services to the poor have experienced dramatic funding cuts from federal and state governments and the private sector. There are 10 legal services programs which are scheduled to receive monies from this fund for FY 1997-1998 which include such agencies as Legal Aid Society of Hawaii, Native Hawaiian Legal Corporation, Protection and Advocacy Agency of Hawaii, Na Loio No Na Kanaka, and Domestic Violence Clearinghouse and Legal Hotline. While the monies that they will receive will not make up the full amount of their reduced funds, this money will hopefully help them to stabilize their organizations and continue to serve the indigent population.

"This Fund was created in the 1996 session by Act 305 (SB 2264). However, due to start up difficulties, the monies were not distributed until late last year and the Fund was scheduled to sunset on June 30, 1999. The extension of the sunset date to June 30, 2002 in this bill is necessary as more time and experience with the Fund is needed to fairly assess its success.

"Additionally, this bill changes the administration of the Fund from the Office of Community Services to the Administrative Director of the Courts. Several beneficiary agencies testified that this was the concept that was submitted with the original bill which led to this Fund's enactment. According to the Legal Aid Society of Hawaii, in written testimony dated February 23, 1998, last year's Fund generated \$444,950 of which only 59% or \$262,752 was released for distribution to legal services programs. Legal Aid stated that 9% of the Fund was distributed to the Department of Finance, the Office of Community Services, and the Department of Labor for a total of \$40,248 and that the remaining \$141,950 or 32% was not designated for distribution.

"These agencies believe that having the Judiciary administer the funds will provide the least bureaucratic and most appropriate distribution method. I, along with my colleague from McCully/Moiliili, will, at a later date, appraise the wisdom of our decision.

"Finally, this bill requires the Commission on Access to Justice to annually file a report to the Legislature stating whether this Filing Fee Surcharge Program is meeting the civil legal needs of indigent persons and making recommendations. This annual report will enable the Legislature to yearly track its progress so that we can determine whether to continue this program.

"As a former Legal Aid attorney, I believe that it is important for Hawaii to ensure the continuation of civil legal services to our low-income population so that all people have continued access to the justice system. For the foregoing reasons, I fully support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2496, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICES FOR THE INDIGENT," passed Final Reading by a vote of 42 ayes

to 4 noes, with Representatives Arakaki, Kahikina, McDermott and Whalen voting no, and Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

Conf. Com. Rep. No. 85 and H.B. No. 2524, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2524, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTESTS FOR CAUSE," passed Final Reading by a vote of 46 ayes, with Representatives Cachola, Menor, Santiago, Souki and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. Nos. 2852, 3528, 2666, 2355, 2357, 2381, 2496 and 2524 had passed Final Reading at 2:10 o'clock p.m.

Conf. Com. Rep. No. 86 and H.B. No. 2613, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2613, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF SUPERVISORS," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 87 and H.B. No. 2667, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2667, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"I feel compelled to rise to speak on this bill because I am aware that I have been the subject of a lot of snickers, jokes and laughter on this bill. But I want to just say that this is a very serious bill. Members, the purpose of this measure is to protect our pet animals, not just any animals but pet animals, from being deprived of necessary sustenance by providing that depriving pet animals of necessary sustenance constitutes the crime of cruelty to animals.

"Many animals in our community are pet animals. Who in this room would argue with the notion that our pets deserve at least the minimum care of food, water, adequate and reasonably clean space for the animals' health and protection from the elements. We aren't saying that you have to build a house. All I am saying is that since we have taken on the responsibility of caring for our pets, we should at least give them the minimum care that they themselves would seek out in the wild. How would any of us feel if we were left alone all day in the hot sun or pouring rain without anyone or anywhere to seek shade or covering from the rain?

"We are talking about man's best friend here. By defining minimum standards of care, including adequate food, water, space and protection from wind, rain and sun, this measure establishes the guidelines and enforcement tools to be used to prevent the neglect and abuse of our beloved pet animals who deserve our loving care. With the passage of this bill, every night when I go home and see my little dog Pixie, I can say to her, 'Pixie, this bill is for you and the millions of pet animals who live in the State of Hawaii.'

"Thank you, Mr. Speaker."

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

"Mr. Speaker, as a pet owner and a parent of two kids who love their pet fish, who, by the way, will not receive the protection of this particular bill, just a few observations, Mr. Speaker. That is, one, seriously, their pet fish will not receive the benefit of the State's protection. Unfortunately, their lobby was not active enough in this battle.

"I think it's good and important that we make a strong stand and a statement that our pets and domesticated animals are important, that we do care for them. That as a state, we're serious about affording them the kind of necessary sustenance and shelter that we know they are entitled to. At the same time, it does strike one as somewhat odd that we cannot give the same entitlements to all of our people in Hawaii. And so as I support this bill, and I'm thankful for the fact that we are making a strong statement against cruelty to animals, I do have concerns that we have not been able to afford yet these same kinds of protections and entitlements to human residents.

"The other observation, my final observation, Mr. Speaker, is that this bill kind of illustrates that sometimes our Judiciary doesn't quite get it right. If you look on the second page of this bill, you'll see that the current language already says that you are not to 'intentionally, knowingly, or recklessly...starve any animal.' I'm an attorney, I'm not a judge, but I would have interpreted these words to mean: if you starve an animal, you must be depriving them of necessary sustenance. So in many ways, I would have thought that the language we're adding to this bill is redundant. It's already implicit in the text, but because of the testimony that we heard, it wasn't.

"And again, I wish the Judiciary had interpreted these words with a clearer intent. You know if you're starving an animal, you are depriving them of necessary sustenance. Apparently, the Judiciary hasn't done this. That's why it's been necessary for us to make clear what starvation means, depriving of necessary sustenance. So having given those observations, I'm in strong support of this measure."

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

"In passing, I'd like to note that a few years ago, five or six years ago, that I introduced a measure to prohibit the slaughter of dogs for human consumption. And unfortunately, this measure was not heard at all nor was it supported by animal rights groups. They wished to be 'sensitive to the different cultural traditions in Hawaii,' was the rationale that they used. And I think they had a point, but I really felt that they should have been a little more sensitive to our four-legged friends, and sometimes they're some of our best friends -- men's best friends.

"I think it's ironic now that we are passing a measure to guarantee minimum standards of sustenance for pets. Perhaps in the future, we can protect pets such as dogs from being our sustenance. 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. 2667, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative Kahikina voting no, and Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 88 and H.B. No. 2734, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2734, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Ito rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ito's remarks are as follows:

"Thank you, Mr. Speaker. 'Unlawful to Pass When Lights are Blinking.' This is the message we see on the front and back of a school bus. As car drivers we are required to stop when a school bus actuates its lights to allow students to safely board or get off a bus. Many of us do stop, but many drivers do not. They continue to overtake and drive around the bus, at oftentimes the same speed. This creates a safety hazard for both the students and bus driver. It is an accident just waiting to happen.

"The current law only specify that it is unlawful to pass. However, it lacks a consequence for committing such an action. This bill would provide that consequence for those irresponsible drivers who chooses to ignore the warning.

"Mr. Speaker, this measure clarifies that a driver must stop at least 20 feet from the school bus. It also establishes a fine of \$500 and/or community service for overtaking and passing school buses.

"This bill protects the thousands of school children that ride a bus to and from school. It also prevents a serious injury or accident from happening. I urge everyone to support this measure. Thank you."

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

Representative Marumoto's remarks are as follows:

"Mr. Speaker, I would again thank the Chairs of the Transportation and Judiciary Committees for their help in passing another important piece of child transportation safety legislation. This measure puts teeth into the current law that mandates drivers to stop for stopped school buses that are loading and unloading passengers, with a \$500 fine for noncompliance. I believe this will discourage drivers from breaking this law, and will crack down on reckless driving.

"The testimony from Ken Levasseur, a Gomes school bus driver for 18 years, is compelling as follows:

'Daily hundreds of cars pass school buses receiving and discharging students. Every month or so, a vehicle passes or attempts to pass a school bus on the right side of the bus where the door is..

'It is understandable why the police are not enforcing the law. There is no penalty for passing a school bus while the red lights are flashing. If the officer writes a ticket and then has to appear in court, it is discouraging when the judge has no fine to impose and the violator walks free....

'Placing a fine of \$500 for passing a school bus will definitely draw attention to the problem of public safety.'

"Now there is a penalty, Mr. Speaker, and I thank the conferees for it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2734, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL BUSES," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 89 and H.B. No. 2776, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2776, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

Representative M. Oshiro's remarks are as follows:

"I vote in support of HB 2776 HD1 SD2 CD1, which is a step in the right direction for victims' rights. This bill allows victims of crime a 'fast track' to be compensated for their losses by allowing them to enforce a criminal restitution order in the same manner as a civil judgment, using all the available civil collection remedies (garnishment of wages, bank accounts, property liens, etc.). Also, it allows the court to order restitution to be paid to the Criminal Injuries Compensation Commission if the victim has been awarded compensation by the Criminal Injuries Compensation Commission.

"This bill provides the victims with much needed options. First, this bill allows the court to order restitution in an amount to fully compensate the victim for stolen or damaged property (either the full value or the repair cost, if repair is possible); medical expenses; and funeral and burial expenses. This is extremely helpful to the victim because the Criminal Injuries Compensation Commission is not able to compensate victims of property crimes and some violent crimes. Also, under this bill, the victim is still able to recover from the Criminal Injuries Compensation Commission or any other manner allowed by law.

"Second, this bill simplifies the process by allowing the victim to use the criminal court order awarding the victim restitution and enforcing it in the same manner as a civil judgment. Under the present system, collection of restitution is left to governmental entities like the Judiciary, Public Safety, and the Paroling Authority, which is only able to collect on a small fraction of the amount. In the State Auditor's January 1998 Report No. 98-2, entitled, 'Audit of the Collection of Fines, Forfeitures, and Restitutions in the Judiciary', the Auditor found that the amount of uncollected restitution orders in the courts are as follows: 1) Family Courts have approximately \$407,000; and 2) Circuit Courts have approximately \$23.5 million. While the victim can bring a separate civil action against the convicted defendant to obtain an enforceable judgment, this is both costly and time consuming. As a result, many victims go uncompensated. This bill will save the victim time and money and allow them the opportunity to collect on their restitution order.

"While money does not relieve a victim from the mental and psychological anguish that the person experienced due to the criminal actions of the convicted defendant, this is one step to make the defendant right his/her wrong against the victim and society as a whole. For the foregoing reasons, I fully support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2776, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RESTITUTION," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 90 and H.B. No. 2779, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2779, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 91 and H.B. No. 2846, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2846, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"I just wanted to note for the record how important it is for us to take a strong stance in protecting our keikis, our young ones, the future generations, from the hazards of tobacco smoking. And I think for the unscrupulous who would sell cigarettes to a minor, I believe, that the increase in the penalties here are absolutely appropriate and on the mark, on point. I think this is the future of our islands that we must protect. 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. 2846, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTE SALES TO MINORS," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 92 and H.B. No. 2872, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2872, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION INSPECTIONS," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

Conf. Com. Rep. No. 93 and H.B. No. 2932, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2932, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Fox then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Fox's remarks are as follows:

"Mr. Speaker, I rise in support of H.B. 2932, relating to nuisance abatement. This bill is needed to fix a law derailed by a Circuit Court decision proclaiming that while places create public nuisances, people do not. The

City Prosecutor was at the time seeking to charge Waikiki prostitutes for creating public nuisances. This bill gets the Prosecutor's effort to nail prostitutes back on track by clarifying that yes, indeed, prostitutes are just as much of a public nuisance as are the bars the Prosecutor has already shut down for selling drugs. With this bill, with a dedicated City Prosecutor and police force, and with the additional measure aimed at Waikiki prostitution (H.B. 2381) which I co-sponsored, we have our first real chance to clean prostitutes off Waikiki's streets. I urge final passage for HB 2932."

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

"Mr. Speaker, I think on this measure, everybody should be commended, the Senate included, in accepting to try and hopefully help out the counties. So the idea was, in case the prostitution for Waikiki bill didn't pass that this bill would pass so that the City and County of Honolulu could do it themselves.

"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. 2932, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NUISANCE ABATEMENT," passed Final Reading by a vote of 49 ayes, with Representatives Nakasone and Souki being excused.

The Chair directed the Clerk to note that H.B. Nos. 2613, 2667, 2734, 2776, 2779, 2846, 2872 and 2932 had passed Final Reading at 2:19 o'clock p.m.

At 2:19 o'clock p.m., Representative Thielen asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:20 o'clock p.m.

Conf. Com. Rep. No. 94 and H.B. No. 2992, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2992, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. I have some concerns with this measure. This creates a revolving fund into which shall be deposited monies. And the 'moneys in the notaries public revolving fund shall be used for personnel costs, acquisition of equipment, and all operating and administrative costs deemed necessary by the Department of the Attorney General to administer this chapter. The moneys in the fund may also be used to train personnel as the Attorney General deems necessary, and for any other activity related to notaries public.'

"That seems like a broad latitude and I believe that it's within our purview, as members of the Legislature, to review expenditures of this nature. We should have the final say, not the Attorney General. So for that reason, I vote no, Mr. Speaker. Thank you."

Representative Kawanakoa then rose to speak in opposition to the measure, stating:

"The Office of the Attorney General is not created to establish and adjust notary public fees. This bill allows for such action and takes away the focus that the Attorney

General's office should be in administering the laws and/or prosecuting criminals and watching our State, that is, with regard to illegal actions. Maybe we could avoid a lot of harangue over the budget by simply allowing all our departments to establish and adjust fees and create revolving funds. But as the previous speaker has noted, I don't believe that's the intent of this Legislature.

"As the representatives of the people, the voice of the people, we are here to run the affairs of government and at least accept the policy and allow the executive branch to simply fulfill the policy or execute upon that policy.

"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. 2992, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NOTARIES PUBLIC," passed Final Reading by a vote of 36 ayes to 9 noes, with Representatives Fox, Halford, Kawanakoa, Marumoto, McDermott, Moses, Pendleton, Ward and Whalen voting no, and Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 95 and H.B. No. 3010, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3010, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONCURRENT JURISDICTION," passed Final Reading by a vote of 45 ayes, with Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 96 and H.B. No. 3065, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3065, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I believe that I represent a number of my colleagues who share a concern that tobacco products must not find their way into the hands of children, who may be lured to make adult choices before their time.

"I believe that I also represent a number of my colleagues who support the notion that differentiating between those tobacco products where the State of Hawaii's share of the tax has been paid and those products where the tax has not been paid is a bona fide and potentially workable idea.

"The stamping mechanism as proposed in this bill is meant to remedy the situation of declining state cigarette tax revenues, allegedly due to smuggling.

"Mr. Speaker, I have serious concerns about the premise upon which this bill has been put forward and I have serious concerns about the ability of this bill as proposed to accomplish its mission. We do not need to act on a bill whose foundation has not been substantiated by the people who have made this claim, and we should not act on a bill that will not work.

"Claims that Hawaii is the victim of large-scale cigarette smuggling have been circulated throughout the Legislature. If this is true, then why are the lawful state and federal agencies, charged with the investigation and prosecution of such crimes, not aware of such misdeeds?

These agencies have repeatedly said that if individuals, particularly those who have made such statements to various legislative committees, have information that could lead to the arrest and conviction of persons involved in the alleged smuggling, then they are awaiting their call. Mr. Speaker, the phone is not ringing. This situation causes me to be concerned about the truth and accuracy of these claims.

"These claims of smuggling are not new, Mr. Speaker. In every state that has successfully raised its cigarette tax, the tobacco industry has raised this issue. In today's New York Times, Senator John Chafee of Rhode Island is quoted in an article on the industry's claims of smuggling, as stating that the black market argument is a 'red-herring.'

"Yet, if the reason for the decline in state revenues was as a result of some illegal activity on the scale claimed, then would this bill be able to recapture those lost dollars?

"Many of us have heard from the police that there is not the manpower to mount the investigations required. We should note that in the bill that the authority to prosecute is curiously given to the Office of the Attorney General, Criminal Justice Unit, comprised of less than a dozen attorneys, rather than to County Prosecutors. In Honolulu, our Prosecuting Attorney has a staff of over 120 attorneys. No other statute specifies who has such authority because there is no need to specify. We should note that the punishment for conviction is a Class C felony, similar to that of terroristic threatening in the first degree. We have heard from the Department of Taxation that there are no funds in the bill to provide for the administration of the stamping program.

"Many in this body have heard from the representative of the company that makes the tamper-proof stamps affixed to packages of cigarettes. He said that the stamps, by themselves, will not recapture lost revenues without adequate enforcement. He even expressed his reluctance to sell the stamps to Hawaii for concern that his product will be deemed a failure.

"Mr. Speaker, it seems that we have a bill that attempts to solve a problem that may not exist, certainly not to the extent claimed, and the solution proposed clearly will not work.

"Also, Mr. Speaker, we have witnessed that versions of the bill have attempted to repeal and then to delay the implementation of the cigarette excise tax passed by the 1997 Legislature. And let me remind my colleagues that the 1997 bill was proposed and supported as a public health measure and was acknowledged to be revenue neutral. If the State collections are behind and we have fewer smokers, then so be it. I would sincerely hope that my colleagues would not trade a nationally acclaimed, progressive public health measure for a few dollars that would result in putting more cigarettes in the hands of our youth and cost the State countless millions later on.

"Mr. Speaker, it is because of these concerns and my desire to see that any bill we act on is based on accurate information and is workable, that I cannot support the bill before us and will, therefore, vote no.

"Thank you, Mr. Speaker."

Representative Tarnas then rose to speak in opposition to the measure, stating:

"There's two reasons why I am voting 'no' on this bill. The first is the enforcement provisions as was just discussed by the former speaker. And secondly is the

delay in the enactment of the next level of tax which we had approved last session.

"I want to make it very clear that that's my reason for voting against it. The other part of this bill, which is the motion picture and film production income tax credit provisions are very worthwhile. And I do support them because I think the film industry is an important part of our economic future. However, that's not a reason for me to support the measure in my vote so I will be voting against it. Thank you."

Representative Thielen then rose and asked the Clerk to register a no vote for her and asked that the remarks of Representative Takai and Representative Tarnas be entered into the Journal as if her own, and the Chair "so ordered." (By reference only.)

Representative Case then rose and asked the Clerk to register a no vote for him and asked that the remarks of Representative Takai and Representative Tarnas be entered into the Journal as if his own, and the Chair "so ordered." (By reference only.)

Representative Suzuki then rose to speak in opposition to the measure, stating:

"My comments pertain to the sections related to the tobacco stamping. I signed the Conference Committee Report for this bill with reservations because I felt there was much more that could have been done in drafting the legislation to implement the stated purpose of the bill.

"I believe, in fact, that the provisions of this bill were offered in contravention of the true intent of enabling conformity and tax compliance with our tobacco excise taxes. During the last session and this session, I have been a proponent of tax stamping because of the dramatic decline in tax revenues in spite of the level of consumption and the past 33 percent rate increase. This bill does not accomplish the purposes for which I have always been a proponent. Because of this bill, I believe the results of our efforts these past two years should and will result in a veto by the Governor.

"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. 3065, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 33 ayes to 12 noes, with Representatives Case, Halford, Hamakawa, Hiraki, Morita, Pendleton, Saiki, Suzuki, Takai, Takumi, Tarnas and Thielen voting no, and Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 97 and H.B. No. 3192, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3192, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SUPPORT ENFORCEMENT," passed Final Reading by a vote of 45 ayes, with Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 98 and H.B. No. 3553, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3553, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

Representative M. Oshiro's remarks are as follows:

"In 1996, the Legislature in Act 87 made the unauthorized entry into a motor vehicle a class C felony, which brought this offense into line with other criminal property offenses. An unauthorized entry into a motor vehicle contains elements of theft, criminal property damage, and burglary, all of which allow for forfeiture of property upon conviction.

"Statistics have shown over the years that crimes against property have increased as criminals target motor vehicles, especially those rented by our tourists. This measure provides a deterrent that has been proven successful with regard to other types of criminal activity. It makes Sec. 708-386.5, Hawaii Revised Statutes, consistent with other laws that have similar penalty provisions by making a convicted person's tools, vehicle, or other property used in the commission of the crime subject to forfeiture under the provisions of this Act.

"With this law, we will be sending a strong message that this type of behavior, which threatens our islands hard-earned reputation of friendly hospitality to our valued visitors, will not be tolerated."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3553, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FORFEITURE," passed Final Reading by a vote of 45 ayes, with Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 99 and H.B. No. 1868, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1868, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Final Reading by a vote of 45 ayes, with Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 100 and H.B. No. 2998, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2998, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, this bill says 'there is created a temporary maritime authority commission...to plan the details of the creation of the Hawaii maritime authority...' Mr. Speaker, I regret I do not think that the State of Hawaii is going to get a speeding ticket on its way to the 23rd century.

"The concept of maritime authorities have been around for a long time. The Port Authority of New York and New Jersey is almost 70 years old. Most major ports are run by quasi-private authorities that retain the revenue of the operation that they run. They're an efficient way to boost transport in and out of harbors. They also work very well for airports. The Economic Revitalization Task Force made this one of its major planks. Let's have a port authority, a maritime authority in Hawaii, but we

couldn't quite do that. We have to have a temporary maritime authority commission to study the details of the creation of the Hawaii Maritime Authority.

"I think this is a bit of a joke, a bit of an embarrassment, and unfortunately, a serious, serious, pardon the pun, watering down of where the Economic Revitalization Task Force wanted to take us.

"Thank you, Mr. Speaker."

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

"When I became Chair of EDB, I met with business groups throughout the State. And one of the things that they wanted was a bill to move for a port authority in the State of Hawaii. We went through the process of developing the bill, some 180 or 200 pages long. When it came time to get testimony in favor of the bill, they all disappeared. And so there was no one there from the private sector to support the bill. So perhaps this is a way that maybe we can get some movement ahead and get these people that want the port authority, that recognize the good work that the port authority can do, to come here and help us pass one. Thank you."

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

"Mr. Speaker and colleagues, I think this is a very responsible step to take in consideration of how to form the right maritime authority. I have studied port and harbor management in my professional career, and I've done consulting work in this area in my professional work. And this is very complex. When we look at the State system here in Hawaii, we've got commercial harbors statewide, we have small boat harbors statewide, and we have airports.

"Most port authorities in other states are run as a municipal agency would be run. They're not statewide harbor systems that are under port authorities. So we do have a unique situation here in Hawaii. In addition, there's a number of issues that were not resolved during this session because, frankly, the Administration and the advocates within the private industry have not considered or answered those questions.

"The Legislature took a very reasonable approach to set up a commission so that they can look at all these very detailed specifics and complexities and come back with recommendations on how to handle things such as boating safety enforcement, how to handle harbor enforcement, how to handle the regulatory part of harbor management throughout the State, what to do with airports, whether to include them or not. These are complexities that were not addressed this session because they didn't even think them through.

"So I think that this is very responsible -- the steps that we're taking right now because we'll be able to make very clear how we're going to have an effective maritime authority when we address this next year. Thank you."

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

"Mr. Speaker, you know, during the interim we spent seven months looking at the ERTF setting up maritime authority. We had a big gathering at one of the Waikiki hotels to talk about it. We brought in experts from the Mainland to talk about it. We also had discussions here at the Capitol, several meetings on setting up the authority. The more and more we looked at it, the more

and more we studied it, the more we realized how complicated it really was.

"In fact, I had a bill that would set up the maritime authority right away. However, when we had the hearing on that, we realized there were a lot of problems. We looked at different states and realized that no authorities are alike. So there's no set formula of what the authority would look like. If it was such an easy thing to do, I'm sure the Representative from Waikiki would have submitted a bill on it, but clearly there was none from him. So, Mr. Speaker, I think we need the time to take a look at it, study the issue and come back again next session. 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. 2998, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MARITIME AUTHORITY," passed Final Reading by a vote of 45 ayes, with Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

Conf. Com. Rep. No. 101 and H.B. No. 2366, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2366, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"The purpose of this bill is to authorize the Department of Transportation to implement an inter-island water ferry transportation system.

"Mr. Speaker, I'm not opposed to the concept. I realize that there's a need for alternative transportation modes and certainly this would be one of them. I understand, however, that this system will include landings at various locations along the southern coast of Oahu. And my understanding is that Hawaii Kai is seriously being considered for one of those landings. To the extent that a few people in my community may benefit from having this alternative transportation mode, the larger number of my constituents, Mr. Speaker, I believe would be very much opposed to the plan if it includes Hawaii Kai because of the negative impact on Maunaloa Bay and the uses of that Bay that are presently ongoing. And for that reason, I have to express opposition to this measure. Thank you."

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

"First, Mr. Speaker, let me make an announcement. A really happy one in the sense that this will be a new attraction for Hawaii. And that will be for the use of both locals and visitors alike.

"This bill is only a demonstration project at this point in time, but when it's made permanent what it does, Mr. Speaker, will be reducing a lot of traffic in the Leeward area as well as Hawaii Kai, if Hawaii Kai is selected to be the route that this ferry system will undertake.

"Mr. Speaker, the way I look at it, the use of the ferry system will be least costly to the taxpayers by using our waterways rather than massive construction of freeways or widening of freeways. I believe, Mr. Speaker, that this is an alternative route for local consumers and visitors alike and is really badly needed by the State. This is an economic development measure.

"I have other remarks that I want inserted in the Journal in support of this bill. Thank you," and the Chair "so ordered."

Representative Cachola's additional remarks are as follows:

"This bill will enable a demonstration project for a commuter ferry linking Kapolei with Downtown Honolulu. For the initial demonstration phase, the Department of Transportation will seek a private entity to operate the ferry at no cost to the State in exchange for permits and concessions. If successful, this project can take hundreds of cars off the road during the peak travel periods, significantly reducing traffic congestion on the H-1 Freeway and facilitating economic growth in West Oahu.

"Since the last experiment with water transportation to handle commuter traffic several years ago, many conditions have changed. The population in Leeward Oahu has grown somewhat and advances in technology allow for a ferry with greater speed and a smoother ride. In addition, current plans will allow the ferry to be used for visitor activities during non-commuter hours.

"The demonstration project will make use of \$4 million in federal funds already set aside for this purpose, and the Department will seek additional funding from the federal government. Unfortunately, plans to link it with a people mover system were not included in the bill.

"I urge my colleagues to vote in favor of this bill."

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

"There have been numerous studies, proposals and attempts in the past to implement ferry systems in Hawaii, particularly in Oahu. The most recent passenger ferry was Sea Jet which was started in 1986 to relieve Oahu's traffic congestion. The Hawaii Ocean Transit System was to supply the vessels. The State was to supply all terminal, harbor, and access improvements similar to what this bill is asking for.

"The State would spend \$760,000 to build a terminal at Barber's Point. That's only one terminal. A study by KPMG Peat Marwick in 1989 stated that 800 to 1,500 commuters would use the Barber's Point ferry on a daily basis. Most of us in this room know that those projections were way off. That endeavor worked for three months and by the end of the third month there were only six passengers who regularly took the trip.

"Previously, Sea Flight, an inter-island ferry, operated for two-and-a-half years in the red every single month until they finally gave up. They tried to operate an inter-island sea transit commuter ferry between Kewalo Basin and Iroquois Point which lasted for about six years and not successfully.

"We do not have ridership statistics that exist that support this idea. I think we are always in such a hurry to move in some direction without really doing adequate studies. What concerns me over and over is that there are people that want to do it, but not with their own capital. They want all this help. This particular project, I believe, we're relying on federal money that we assume we're going to get.

"Senator Inouye's office has drafted legislation for fiscal year 1999 that would renew the funding for section 1064, our chapter's section for ferry boat discretionary funding. And this draft legislation renews \$18 million annually for total program funding and includes provisions for non-contiguous states which would take care of Hawaii.

"Again, I mean just to do it because we can get the money and maybe it won't cost us a lot, but what about the ridership? What about the people in Hawaii Kai that don't want the ferry? We have fewer people living here than we had in 1992. Yes, Kapolei is up and there's few more people there, but there's much language in the bill that talks about at no cost or nominal cost that doesn't give me a lot of security. I just feel that again we're looking for a free ride not on the ferry, but a free ride, and I cannot support the bill.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. We've heard quite a deal about Hawaii Kai and those people may not want to use the ferry and they don't have to. But the quarter of a million people that would be living around the Kapolei and Ewa Beach areas need an alternative means of transportation because the freeway system can't handle the traffic now.

"My only concern with the bill, and I do have one major concern, is that we've eliminated any language that had to do with any kind of people mover to be associated with the ferry system once we've arrived at the Aloha Tower to get you from there to Downtown. I think we need to look at that. But if this has any kind of ridership at all, it'll be a great benefit, and it is a pilot project.

"I'm not going to say that it wouldn't entail some money, but if it does work out, it's well worth using it. The previous system that was put into place as a trial didn't work because again people had no place to go after they got to the other end of the ferry. They couldn't get to where they worked or where they wanted to shop. So we need to look at that end of it.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I hope that if this goes down the floor we'll be taken very seriously by those who do the implementation of this bill as it does decide to pass. And that it will be put in the area that it is wanted and that it will be put in the area and made feasible to work. As my colleague from Hawaii Kai has noted, we who continuously debate and discourse in the Neighborhood Board decided that this was not the best thing for East Honolulu. But for those communities that wanted it, it should be piloted, it should be put together and not forced upon particular communities the way that I think this is suggestively suggested.

"Maunaloa Bay might be one of those target areas. I think that's not only in a market way unfeasible, but the remarks of Representative Moses should be taken very seriously from the point of marketing. From the point of view of, 'if they build it, will they use it.' And that's the thing that Representative Colleen Meyer just mentioned. We used it and there were six people at the end of the trial period. These things have to prove their market worth first. But they should not be forced upon particular communities. So I join with my colleague from Hawaii Kai saying, in another place and another time. 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. 2366, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed

Final Reading by a vote of 40 ayes to 5 noes, with Representatives Halford, Kawananaoka, Meyer, Stegmaier and Ward voting no, and Representatives Cachola, Chang, Herkes, Jones, Souki and Yamane being excused.

The Chair directed the Clerk to note that H.B. Nos. 2992, 3010, 3065, 3192, 3553, 1868, 2998 and 2366 had passed Final Reading at 2:46 o'clock p.m.

Conf. Com. Rep. No. 102 and H.B. No. 3468, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3468, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 103 and H.B. No. 2486, HD 3, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2486, HD 3, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I'm not a lawyer, but I read this bill and I looked at it and it looked like the language wasn't away from marriage and family therapists. The way I read it, you could read it either way. It wasn't explicit that pastors and clergymen could still continue to do this type of thing, or even say someone like a church elder, a guy that that's not his primary profession. He's an elder in the church, but he works with families as a minister after hours and on the weekends. He doesn't get paid, or maybe they give him a bushel of mangoes from their tree out back, but he helps a family going through a crisis as a member of the church community.

"I think we're opening up a 'can of worms' here because the bill didn't explicitly say that churches and places of worship and people who engage in that are exempt. And that I find very troubling. So that's why I'm voting no.

"I can see, for instance, with the Catholic Church. We have Marriage Encounter Weekends and, Mr. Speaker, I wish the language would have been explicit and had made it crystal clear that that was exempt. So I'm going to vote 'no' on that. Thank you."

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

"I'm going to vote with reservations for the reasons that were just set forth by the prior speaker. I think my understanding of the measure, while it is not crystal clear, I do share the concern that our clergy or other members of our various faiths would not have the opportunity to help out troubled marriages or even counseling before marriage. Clearly this is an appropriate area for our various churches and other religions to participate in fostering good family relationships, and I certainly am in support of that and would not vote for this bill unless I was confident that I would not be interpreted in such a manner.

"Thank you, Mr. Speaker."

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

"You've kind of heard the whole spectrum of votes on the Republican side on this particular bill -- a 'no' vote, a with reservations, and in support. But I think our intent and understanding and reasoning are in sync. We all share the same concerns that this bill may inadvertently or unintentionally affect or impact the work of the clergy as they counsel their members of their various congregations, their churches, or their synagogues.

"I'd like to explain why I believe I can support this particular bill. If you look at page 11 of House Bill No. 2486, I look at line 16 which is the section (b) under the exemptions portion. It is my understanding from reading this language that it provides or affords clergy the ability to continue their work as minister, as pastors, as priests in counseling their congregants, their church members in this area without being precluded from doing so by this particular bill.

"It reads: 'Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law, rule, or the department, including but not limited to social workers, psychologists, registered nurses, or physicians...' So I would assume that licensed clergy would fall under this exemption. '...from doing or advertising that they assist or treat individuals, couples, or families consistent with the accepted standards of their respective licensed professions.' So my reading of this bill, Mr. Speaker, is that the clergy can engage in this kind of assistance and work with the members of their congregation.

"And that's why I support this bill so any future people who have to litigate on this bill, I want my legislative intent to be absolutely clear. I understand that this language permits that and that's why I can support this bill. Thank you."

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

"I want to thank the previous speaker for pointing out that section because I was going to say the same thing. Basically, this issue did come up and perhaps we should have cited specifically clergy in the line where it says, 'included but not limited to', to make it very clear.

"Obviously what it does is it allows them to do marriage and family counseling. What it does do, however, is it limits them or prohibits them from using the title of marriage and family therapists. However, there are clergy who are qualified and certified marriage and family therapists. So I hope that answers the concerns.

"Thank you, Mr. Speaker."

Representative Stegmaier then rose to speak in opposition to the measure, stating:

"Just to point out an addition to the comments that have been made by others and the concerns that have been raised. I'm not certain that the timing of the start of this regulation will fit in with the ability of the people to reach these qualifications to meet them. As I understand it, there are academic requirements, significant academic requirements, that are pointed out on pages 12 and 13. And then in addition to that, those who want to be designated therapists of this kind would have to take an examination, a national examination, and pass that before they would be qualified.

"All of this has to take place before December 31 of this year, Mr. Speaker. Otherwise those who are

practicing at present, I don't believe would be qualified to continue practicing, at least if they were to assert a particular title that they were a family and marriage therapist. So I think there's a problem there. I just find it really unacceptable that we did not exempt clergy and all the different kinds of activities, including Marriage Enrichment, Marriage Encounter, Engagement Encounter and other activities where they're supporting people based on a recognition of certain religious beliefs and scriptural principles that many people abide by.

"For this reason, because of this major omission, I find this bill to be flawed and I can't support it as it presently reads. Thank you."

Representative Kawakami then rose in support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawakami's remarks are as follows:

"Mr. Speaker, I rise to speak in strong support of H.B. 2486, HD 3, SD 2, CD 1, relating to marriage and family therapists. It may seem strange that I am in support of a new regulatory program in these troubled economic times, when many are clamoring for the government to downsize and reduce regulation, but this regulatory program will not only help protect the mental health service consumers of the State of Hawaii, it will save the state government money. In other words, there is a need to regulate marriage and family therapists, and by meeting that need we will also decrease state government spending.

"The profession of marriage and family therapy is recognized by the National Institute of Mental Health as one of the five core mental health professions along with psychiatry, psychology, clinical social work, and registered nurses. At present, marriage and family therapy is the only mental health profession which is unregulated in the State of Hawaii. There are no safeguards in place to assure consumers of the quality of services they are receiving. This can and has led to cases of unethical individuals preying on those who are vulnerable and seeking mental health services. Marriage and family therapists are regulated in forty other states. This leaves Hawaii as one of the few places in which a person who has been disciplined or barred from practicing marriage and family therapy in another state can come and legally practice their profession. The passage of this bill helps to eliminate this type of abuse.

"Not only will this regulation afford the protection that the consumers of mental health services need, it will help to save the State government money. The Felix v. Waihee consent decree demands substantial improvement in the delivery of children's mental health care. An integral part of the decree is the inclusion of family therapy, a service for which marriage and family therapists are uniquely trained and qualified. Presently, a lack of qualified mental health professionals, especially on the Neighbor Islands, has cost Hawaii thousands of dollars to transport mental health practitioners when qualified marriage and family therapists on those islands could provide services. In addition, the regulation of marriage and family therapists compared to reimbursement rates to licensed psychologists for comparable services. Therefore, the State will save money by reducing the cost of its Medquest program and reducing the cost of Felix v. Waihee compliance. Savings may also result in child protective services and other human service areas. Furthermore, the licensing program and its administration will pay for itself with the fees collected, thus costing the State nothing. This is a 'win-win' situation.

"In addition to the need to protect consumers and the cost savings to the State, there is another reason I support this bill. Public and private universities of Hawaii are seeking to establish graduate programs in marriage and family therapy, but are reluctant to do so until the profession is regulated. This will ensure employment of their graduates in Hawaii once trained.

"I support the regulation of marriage and family therapy because it will provide protection for Hawaii's mental health care consumers, and result in cost savings for the State."

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

"It seems incredible to me that we could have a bill that has been debated to the extent that this has been debated and still be so grossly misunderstood. Just to remind the members, this is a similar bill to what we passed last year. Unfortunately, it was vetoed by the Governor. His concern was not about the profession itself, but about the fees that they would have to pay.

"I'd like to make sure that the members understand that the title of marriage and family therapists and the profession itself, which is widely accepted throughout the Mainland, is something perhaps that Hawaii needs to catch up on. We are in no way trying to say that those who do marriage and family counseling will in any way be prohibited from doing that. What we are trying to do, in also responding to the needs of the Felix Consent Decree, is look at the licensing, look at the protection of the title through a profession. As a result, I strongly urge my colleagues to please read the measure and understand that we are not in any way eliminating any of the concerns brought up by the other members. Thank you."

Representative Kahikina rose in support of the measure and asked that Representative Santiago's remarks be entered into the Journal as if his own (by reference only), and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kahikina's remarks are as follows:

"Mr. Speaker, I rise to support the measure and want to express my concerns that this measure failed to exempt the clergy (ministers, pastors, priests, etc.) from the exemptions found on page 11, lines 16 to 24. Although it reads starting from line 16: '(b) Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law, rule, or the department, including but not limited to . . .' Perhaps we can be explicit next year and add clergy to the list of other professions that is listed.

"This measure will build capacity in an area that we need more workers to address the 'Felix vs. Waihee' court decree. And for those reasons and for protection to the consumer, I support H.B. No. 2486, HD3, SD2, CD1."

Representative Whalen then rose to speak in opposition to the measure, stating:

"I'll be quick, Mr. Speaker. At the CPC hearing, when Director Norrie Thompson spoke about this, I actually proposed the language that said it's just a bill licensure measure so that a person could have a license and not present themselves out to the public as a therapist, and she said that's what we could do. I believe we amended the bill in the CPC Committee so that's how it would be. It would be a title bill. In the Finance Committee, it changed back into what we got out of the Health Committee, a practitioner's bill as well.

"The expert -- the DCCA -- which will enforce this bill said that the way it is written now, it's a practitioner's bill. It's not just the title or advertisement bill. It will stop those from practicing this profession, et cetera. . . I'm getting into too many details. But it will stop those that practice it unless they are licensed by the State and all of the arguments against this bill, which describes the various ministries or various methods that people go through, will be halted if this bill is enforced as written.

"Thank you, Mr. Speaker."

Representative Tarnas rose in support of the bill, stating:

"I would like to reiterate some of the statements that were made by the Health Chair. You know, this bill is a consumer protection bill. It is to make sure that the consumer knows that when they see somebody who calls themselves a marriage and family therapist, this person has been trained, this person has been tested, they have achieved all the criteria that is required under this bill so that they know when they go to a marriage and family therapist, they are receiving the service that they are paying for. All the other professions that have come up -- pastors, social workers, et cetera -- will continue to be able to offer guidance and advice on marriage issues as it relates to their own profession.

"Nothing in this bill will stop those professions from doing what they do within the purview of their own profession. And we have to be very clear about that, members. This is not going to stop that. What this does is it protects the consumer so that they know when they're paying for a service from a marriage and family therapist, they are getting what they pay for. I think that's very important, so I urge all the colleagues here to support this measure. Thank you."

Representative McDermott rose and stated:

"One more time, Mr. Speaker. I did read the bill because this is an issue that I was very interested in.

"Mr. Speaker, a deacon in a Catholic Church, that's not his full-time position. He has a job. That's not his profession. Now, if he wants to help families and provide marriage counseling to couples in trouble, that's not his full-time profession. That's not what he does 24 hours a day. He could be a welder, he could be a warehouseman. He is not covered under this.

"I don't object to the licensure or the language to the title of the bill that Representative Whalen was talking to, but I want to see protection for the pastors and priests, and I don't want us encroaching upon their territory. I don't know why we didn't put it in the bill. Why are we afraid to do that? So I just brought an example where a deacon that is not his full-time job, it is not his profession. He is not covered. 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. 2486, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MARRIAGE AND FAMILY THERAPISTS," passed Final Reading by a vote of 42 ayes to 7 noes, with Representatives Cachola, Halford, McDermott, Moses, Stegmaier, Ward and Whalen voting no, and Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 104 and H.B. No. 3024, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3024, SD 1, CD 1,

pass Final Reading, seconded by Representative M. Oshiro.

Representative Arakaki rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Arakaki's remarks are as follows:

"Mr. Speaker and colleagues, let me start by acknowledging the yeoman work of the Human Services Committees of the House and Senate.

"House Bill 3024 establishes a 15 member financial assistance advisory council within the Department of Human Services to render advice and information to determine the amount of benefit payments under various public assistance programs.

"It also allows those on General Assistance to become more self sufficient by allowing them to work more hours, thirty, and still qualify for General Assistance.

"This measure will also allow the State to continue receiving federal funding for administration of its welfare reform program mandated by the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, by repealing the 'sunset' provisions of Act 300, Session Laws of Hawaii 1996, and Act 200, Session Laws of Hawaii 1997.

"Although there are important amendments to set the standard of need to the current federal poverty level, it is hoped that the Department of Human Services, in the future, will not allow it to be reduced, especially for General Assistance. Another important program is the Food Stamp Program for legal immigrants, which we hope the State will restore if given the funding from the federal government. 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. 3024, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 105 and H.B. No. 3028, HD 1, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3028, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 106 and H.B. No. 1332, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1332, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Most of my comments I would like to ask to be placed into the Journal, please (the Chair 'so ordered'), but I do want to bring a few matters to the members' attention.

"This measure to amend the Water Code is one of a number of assaults we're seeing this session on the integrity of the system we previously set up to manage our

precious water resources. Like others, this bill meddles with the Code only to favor a single special interest -- agriculture. This is not only shortsighted, but contrary to the fundamental principles in our Constitution and Water Code, that the State has a trustees' fiduciary duty to manage the resource evenhandedly in the best interest of all the people of Hawaii.

"The Water Commission was given a mandate to look at all sides of every water issue and come up with a solution that is balanced, fair, and in the public interest. Keeping agriculture viable is certainly in the public interest, but so is keeping streams flowing healthfully. So is keeping our estuary, the foundation of our fishing industry, productive. So is making sure that native Hawaiians can find fish and opae to gather for subsistence. So is allowing our taro farmers to sustain themselves. Our Water Code says that all of these and others as well are in the public interest.

"The Code carefully avoids singling out any special interest for special treatment, and we must not start meddling with this system. Unfortunately, this bill does that, and that is why I must vote 'no' on the bill. And may the balance go into the Journal, please, Mr. Speaker," and the Chair "so ordered."

Representative Thielen's additional remarks are as follows:

"There is no evidence of a problem that needs fixing. We had one well-publicized contested case, and when the dust settled, agricultural interests were given a lot of water and haven't been complaining. Bending the Water Code to give agriculture a special edge is not necessary or appropriate. Nor should we be amending a complex, comprehensive regulatory scheme piecemeal, with a bill like this, that seeks only to give one special interest what it wants. If there is to be any refinement of the Water Code, it should be done only after careful study by people who are familiar with the whole statute, know how it has been working in practice, and have the entire public interest in mind.

"While some of the more heavy-handed and obnoxious provisions of this bill have thankfully been deleted, what remains is still an attempt to 'stack the deck' through the 'back door'. I question the logic in the requiring the Department of Agriculture to 'stack the deck' through the 'back door'. I question the logic in the requiring the Department of Agriculture to prepare a State agricultural water use and development plan, giving particular attention to the irrigation water systems. Why is this an amendment to the Water Code? We have an entire chapter -- chapter 167 -- devoted to agricultural irrigation systems. None of this provision has anything to do with the Water Code or the Water Commission. We should not be trying to graft the concerns of the Department of Agriculture into the Water Code, suggesting that the Water Commission owes them some special attention. It is particularly inappropriate to conclude that the State subsidize the repair and maintenance of irrigation -- that is, ditch system, most of which serves the interests of large corporations and land trusts -- is a priority. It isn't.

"Requiring the incorporation of the State agricultural water use and development plan into the State water projects plan might be interpreted to suggest that the Water Commission must adopt whatever water use plan the department of Agriculture comes up with. We should not be telling the Water Commission it must swallow anyone's 'wish-list'.

"The definition of 'existing agricultural use' provided in this bill would allow any agricultural operation to go

from tree farming to tomato farming to cattle ranching to growing flowers without allowing the Water Commission the chance to evaluate whether the operator's water use was still appropriate in light of the crops' water need and in view of all of the other competing needs that might exist. There is no need to tie the Commission's hands in this way. We have no reason to believe that, if the water use is appropriate, the use will not be permitted. We shouldn't be preventing the Commission from doing its job, which is protecting the public interest."

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

"One of the main purposes of this bill is to help stimulate and strengthen the State's agriculture industry through the Water Code. This bill will work to strengthen our agriculture industry in several ways.

"First, the bill redefines several terms used in the Water Code such as the definition of 'agricultural use' and 'existing agricultural use', to make it clear that a change in crop does not constitute a change in the use of water. As such, there will be no need to have the Water Commission conduct hearings to redistribute the water whenever a farmer decides to change the kind of crop that he raises. This has been a real stumbling block.

"This bill also requires that the Department of Agriculture conduct a statewide inventory of all the State water systems in Hawaii -- those that were run by the plantations and sugar and pineapple -- and to make sure that those that are abandoned or neglected are identified. If they are important, the Department of Agriculture is asked to come out with a five-year program to rehabilitate those irrigation systems that are important to the State of Hawaii. Once these water systems deteriorate, once the tunnels, the water flumes, the ditches deteriorate, the State of Hawaii will never, never be able to build these systems again. It will cost billions of dollars to redo what is now in place.

"So part of the Water Code, part of this bill, is to identify those systems and to come out with a five-year program to determine which of those are real important to Hawaii and to develop a program to identify, rehabilitate and maintain them for the future of our agriculture industry. This is a real important bill, Mr. Speaker, and it's really far-reaching. Thank you."

Representative Meyer rose and stated:

"I'm in opposition to this and rather than take my colleagues' time now, I would ask the Clerk to insert my remarks in the Journal," and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 1332 HD2 SD2 CD1. I am supportive of some portions of this bill such as the planning element. Under this bill, water systems will be evaluated as statewide resources rather than viewed in isolation. That approach is something that is long overdue. Careful, long-range planning is essential to the highest and best use of our water resources.

"A major concern of mine, however, is the changing of the definition of 'existing agricultural use' to include a change in crop. In effect, this means that if you change your crop, you don't have to be re-evaluated for water use purposes. This is outrageous. Different crops use different volumes of water, therefore if a user changes crops he should be required to re-petition for how much water he will use. For example, sugar cane used a huge amount of water compared to others such as watermelons.

If the new 'diversified agriculture' crops that are taking the place of sugar use less water, then those who grow those crops should get less water rather than be allowed to continue to use the same high volume of water. A real concern in that regard is that the surplus of water would be used for non-agricultural uses such as housing construction and golf courses.

"The intent of HRS §174C-31(g) is not to afford greater priority to any particular type of use or infrastructure but rather to protect natural resources referred to in §174C-31(f). The stream water has value outside of assisting large landowners with increasing their profits. The State Constitution mandates that the Commission on Water Resource Management is to 'conserve and protect Hawaii's natural beauty and all natural resources.'

"In conclusion, if we are going to change the water code, let's do it for a fair and justifiable reason and a fair and justifiable way. HB 1332 HD 2, SD 2, CD 1, is neither fair nor justifiable."

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

"I would note, Mr. Speaker, that there is more than one island in this State. Take Ka'u for example. Ka'u Sugar, at one time, was using a lot of water for flumes and there are dozens of tunnels drilled into the side of the mountains. That water is just flowing and being wasted and what we need to do is to go in and examine systems like that and recover them so that we can have a viable, diversified agricultural industry in areas like Ka'u to solve some of our economic problems. I support the bill."

Representative Thielen, in response, stated:

"The AG Chair said that this will strengthen the agriculture industry. Well, yes, that's correct, but it's going to be draining away from other areas that I mentioned in my previous comments. It's favoring one sector over another. And our Water Commission was particularly established to avoid that kind of favoritism.

"He was also discussing that the new definition of agriculture would help because there would be no need to redistribute water when a farmer changes agricultural use. Well, that's a problem. If the farmer's new agricultural use is going to use less water and we have other competing interests that need that water, then the Water Commission should be able to deal with that.

"And then he also spoke about the five-year program to identify different water systems and take a look at what we need to do with those. Take a look, members, on page 4 of the bill, line 5. It states that we will 'subsidize the cost of repair and maintenance of the systems.' Now the bill may have been inaccurately drafted, but that's what the bill states. How the plan can subsidize, I don't know. But inherent in the plan is subsidizing the cost of repair and maintenance of the systems. We've heard a lot of complaints about that in the past. And there was another bill that was very heatedly debated, and I don't want to send the Majority Floor Leader up on his feet so I won't discuss that other bill.

"However, subsidizing costly repair, particularly if this is on private landowners' land, it is something that we should not ask the taxpayers to do. I think, first of all, we're favoring one industry over all the others and second of all, we're implying that we're going to pay for the repairs and the maintenance of systems that should, in many cases, be done by the private corporations that own those systems and own that land and which are benefitting from that water source.

"The third thing is that I think we very definitely need to enable the Water Commission to redistribute water when a large farming operation changes its use, its agricultural crop, and requires less water for that new ag crop. There are others standing in line, and they deserve then to be able to step forward and use some of that water. Thank you, Mr. Speaker."

Representative Morita then rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Morita's remarks are as follows:

"Mr. Speaker, I rise in support but with reservations on H.B. No. 1332, HD 2, SD 2, CD 1 entitled: 'A Bill for an Act Relating to the State Water Code.' The purpose of this bill is to require the Department of Agriculture to prepare a State agricultural water use and development plan for agricultural uses in the State in accordance with the State Water Code and the laws relating to irrigation water development. Although I recognize the importance of a State agricultural water use and development plan now that sugar is being phased out, we must remember that this plan should be considered within the already recognized priority uses in water. In the final report of the Review Commission on the State Water Code, which was submitted to the Legislature on December 28, 1994, the Commission 'brought to light the existence of several types of water rights and uses that may be claimed as priority uses of water.' These included: (1) conservation, (2) appurtenant rights, (3) Hawaiian home lands, (4) existing, correlative and riparian uses, and (5) agriculture. Thus, the agricultural water use and development plan should be considered within these hierarchy of uses. In any event, the Legislature should give more serious consideration to analyzing the Review Commission report before enacting piecemeal legislation that could disrupt the scheme of water regulation that has been crafted after much debate and discord over the past 15 years.

"Moreover, I have concerns about two separate provisions in the bill. First, the bill states that the agricultural water use and development plan shall 'subsidize the cost of repair and maintenance of the [irrigation water] systems.' This is a cost for agricultural use being assessed to the general public. If we allow irrigation water use to be subsidized, we will again be providing tremendous competitive advantages to those who use irrigated water. Hence, the cost of repair and maintenance of irrigation water should be factored into the cost of production for those who utilize irrigated water.

"Second, the bill adds 'existing agricultural use' as a new definition to the State Water Code. The bill defines existing agricultural use as 'replacing or alternating the cultivation of any agricultural crop with any other agricultural crop, which shall not be construed as a change in use.' This may be an important provision for truck farmers growing one crop now, but depending on the market may consider producing another crop later. However, this can also pose a major problem in this time of transition from sugar production to 'diversified agriculture' and urban development. New crops and other uses that will now replace sugar may not utilize as much water as sugar did. Hence, landowners will be able to reserve more water than necessary from crops or urban development, clearly outside of the scope of existing agricultural use.

"In closing, the Legislature must be mindful of the Constitutional mandate in Article XI, Section 7 of the Hawaii State Constitution, which provides that 'the State

has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people.'"

Representative Jones, in response, stated:

"I just wanted to add that agriculture is one of the few growing segments of our economy and this bill will try to provide what it will take to enable agriculture to continue to grow.

"Agricultural export accounts for 90 percent of the things that Hawaii exports to the rest of the world, and that include food items as well as flower items, nursery items. And because this is the one area where we can look at developing our economy, we should do whatever we can to promote this segment of our economy.

"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. 1332, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," passed Final Reading by a vote of 47 ayes to 2 noes, with Representatives Meyer and Thielen voting no, and Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 107 and H.B. No. 2842, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2842, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DIRECTOR OF HEALTH," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 108 and H.B. No. 2862, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2862, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, providing for developmentally disabled services with the imminent closing of Waimano Training School and Hospital in June of 1999, we have the opportunity and responsibility to enable developmentally disabled persons to become active members of their community. Through community-based services, the remaining residents of Waimano will be able to enjoy many of the benefits that many of us may take for granted.

"I think a number of us have had the opportunity to meet Herbert Kalani this legislative session. And I am very grateful that he is here in the gallery to listen to us discuss this bill. He is a former resident of Waimano and has taken it upon himself to become involved in the legislative process. Kalani currently lives in a community in Ewa Beach (Rep. Paul Oshiro's district I believe) in an Adult Residential Care Home. Over the last several years Kalani has been able to become more and more involved in the community and has been very happy. Kalani has taken the time to let some of the Representatives know what his life is like and how living in the community has changed his life. This is the essence of person-centered planning, enabling persons to make decisions in their own lives rather than having decisions made for them. Through person-centered planning and self determination,

persons with disabilities can be more independent and become in charge of their own lives.

"An Individual Special Plan (ISP) enables developmentally disabled individuals the opportunity to let others in his or her life know what their goals and dreams are. An ISP also enables people that are important to the individual such as family and friends to get together and work towards empowering the individual to make those dreams become a reality.

"There are already many individuals, such as Kalani, that are living very happily in the community. We must ensure that this continues. But we must remember the responsibility that, we as legislators, bear that is inherent with providing community-based services. People with developmental disabilities are very vulnerable in many ways. Many of these individuals are not able to communicate their concerns and fears. They either depend on augmentative devices or persons that are close to them and communicate in their own way. No matter what way they communicate we must make sure that we listen to them and provide the necessary supports.

"Despite the fact the Waimano Training School and Hospital was to be closed by this June, I believe that given the additional year, the Department of Health has along with the community and the residents, together will be able to work for the common cause of empowering individuals with disabilities with the tools they will need to become active members of their community. I thank Representative Alex Santiago, Chair of Health Committee for shepherding this bill through. Many of the rights of persons with developmental disabilities and mental retardation are already enumerated in the Hawaii Revised Statutes. HB 2862, before us now, adds more rights to the list for Kalani and others as they strive for independence.

"I would like to state just a few of those rights now:

1. To receive the least restrictive, individually appropriate services;
2. To reside in the least restrictive, individually appropriate residential alternative located as close as possible to the person's home community within the State;
3. Interaction with persons without disabilities in a nontreatment, nonservices-oriented setting'
4. To direct the provision of resources, that will assist an individual with a disability to live a life in the community rich in community association and contribution.

"It is our duty as legislators to ensure that these rights are not ignored and are honored and respected and upheld. We must ensure that persons with developmental disabilities receive what they deserve-their health, a home and happiness. House Bill 2862 helps us go further in order to accomplish these goals.

"I sincerely thank Kalani for his participation and his help in this legislative process. Kalani and his friend, Laura Ellis, have taught me a lot, and I deeply am grateful to both of them. 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. 2862, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICES FOR DEVELOPMENTAL DISABILITIES," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

Conf. Com. Rep. No. 109 and H.B. No. 2714, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2714, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCOLLECTIBLE ACCOUNTS IN THE JUDICIARY," passed Final Reading by a vote of 49 ayes, with Representatives Pendleton and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. Nos. 3468, 2486, 3024, 3028, 1332, 2842, 2862 and 2714 had passed Final Reading at 3:15 o'clock p.m.

At 3:15 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 3:32 o'clock p.m., Representative Kawakami was permitted a late introduction and she introduced to the members of the House 37 students from Kekaha Elementary School. They were accompanied by their teachers, Mrs. Agena and Ms. Mihu Yong.

Conf. Com. Rep. No. 110 and H.B. No. 2786, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2786, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL AND MEDICAL EXAMINATION OF CONVICTED DEFENDANTS," passed Final Reading by a vote of 50 ayes, with Representative Ward being excused.

Conf. Com. Rep. No. 111 and H.B. No. 503, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 503, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Ito rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ito's remarks are as follows:

"This bill has been two years in the making and is the result of a 1996 legislative audit on the procurement practices of the Correctional Industries Program which pointed out that State agencies' forced acquisition of printing services from Correctional Industries was inefficient and no longer necessary.

"The passage of this bill would allow the Director of Public Safety or representative to consult with the State Procurement Administrator to identify and list the goods and services that the program may provide and what State agencies may purchase.

"Support of this bill means a support of Hawaii's small businesses, such as those in the printing industry, who will have the chance to compete for services and goods contracted out by the government. I urge everyone to support this measure. 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. 503, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL INDUSTRIES," passed Final Reading by a vote of 50 ayes, with Representative Ward being excused.

Conf. Com. Rep. No. 112 and H.B. No. 1966, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 1966, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker and fellow colleagues, I don't know if any of you are like me, a caregiver for an elderly family member. But as a survey by the Executive Office on Aging reflects, if we are like other families in Hawaii, 20 percent of us are. And this should come as no surprise because for most of our ethnic cultures here in Hawaii, care for family members is more than just a moral obligation, it is a given.

"And for many families, it's not just a matter of choice but also a matter of economics and familial obligation. But all too often our families are left with a dilemma of high cost institutional care or being reduced to poverty in order to receive State financed care. But here in Hawaii, we are blessed with a statewide sound network of adult residential care homes that provide a level of care in homelike settings that few institutions can match.

"At the same time, they save the State millions in health care costs. It is no surprise that many of these care homes are families of Filipino ethnicity who have combined entrepreneurial spirit, work ethic, openness, caring, and the compassion to provide 24-hour, seven days a week care for the most vulnerable in our community.

"Our federal government, through home and community-based care, acts has also issued guidelines that require the elderly and disabled be given choice between institutional and home and community-based care. This bill will provide for a social model of care that would allow those who qualify to be cared for in a family and homelike setting in a cost-effective manner.

"According to the figures from the Executive Office on Aging, by the year 2020, one in every four Hawaii residents will be 60 years and older. And Hawaii's 85 plus group is estimated to increase by 395 percent, which is the second fastest growth in the nation. Many of these elderly will have at least one chronic condition and some will have multiple conditions. And the question we all need to ask ourselves is: will we be prepared to handle the expected wave that will come crashing at the start of the new millennium?

"To do so, we will need more flexibility in care arrangements and financing. And this bill paves the way for the development of more home and community-based care. This bill also acknowledges Hawaii's care home operators for the important contributions that they make to the care of Hawaii's elderly and disabled.

"And I'd like to thank my Co-Chairs Representative Santiago, Representative Abinsay and Chair Say for their patience since this bill went through many different iterations before reaching this final conference draft. So 'thank you,' and I also want to thank the care home operators and the Department of Human Services and the Department of Health for their contributions as well.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I strongly support House Bill 1966, relating to adult residential care homes for at least two reasons. First, I should give some background. I first became familiar with adult residential care homes as a kid because my grandmother for many, many years took care of people in these kinds of homes. That's what she did for her living to help supplement what my grandfather earned.

"I then learned about how our State regulates this entire area during my brief period of service on the Human Services and on the Health Committees. I think this bill is an important bill. As my distinguished colleagues has said earlier, we will be seeing an increasingly large number of retirees or people who are 65 and older, an aging of the population in Hawaii, as it were.

"I think this bill helps to address that particular age group in a number of ways. Let me just speak on two, Mr. Speaker. First of all, this bill expands the ability of adult residential care homes to admit higher level of care individuals. And why this is important is because it gives those people who require more care more alternatives. And that's a good thing to give them some options.

"The other thing that I think this bill does that's also very good is it instructs the Department of Health to adopt rules or to go through the rule promulgation process to enable an expansion of adult residential care homes. These rules will help safeguard the quality of care provided in adult residential care homes and will protect people who are in those homes and will also afford guidance to those caring and loving people who run these businesses.

"Yes, they are businesses. But in my experience, having interacted with many people who operate these kinds of businesses, they create family atmospheres. And they're in this business because they care about people. They're not in it just for the profit. So for these reasons, and for the reasons as set forth by the previous speaker, I stand in strong support of this measure.

"Thank you, Mr. Speaker."

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

"The one thing I want to point out is that through this measure, which is a very far reaching measure, we will be able to see some significant savings in this State. Tens of millions of dollars were saved when similar measures were adopted in Oregon. And I think we can look forward to similar savings here for our consumers in this State when they're facing the costs that are to be incurred when one has to look at the long term care of our elderly and disabled.

"I also want to, as the original sponsor of the bill, make sure I give credit where credit is due, and that is to former Representative Virginia Isbell who is really a very strong proponent and continues to be a strong proponent of this measure. So thank you very much, Mr. Speaker."

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

Representative Lee's remarks are as follows:

"Community-based care is a goal many of us have had for years, and this bill will enable this goal to be met, while at the same time making better use of our financial resources and our acute care facilities.

"Mr. Speaker, the concern I have over the movement of some skilled nursing care level patients into community settings is one of quality.

"We have a responsibility to make sure that patients in the community receive a standard of care as high as that of institutional care. We can achieve this by concentrating on the training and education of care home operators and workers before a major transition is made. This will not be easy and it will also not be cheap.

"My experience in both acute care nursing and in community-based care tells me that we are not ready to make the transition until the above is on its way."

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

"I'd like to request the remarks of Representative Arakaki and Representative Pendleton to be entered into the Journal as if they were my own (by reference only), and at the same time let me add a few remarks, Mr. Speaker," and the Chair "so ordered."

Representative Cachola continued, stating:

"The care home operators, to my mind, are overworked, underpaid, and sometimes we don't even recognize the contributions they give to our elderly and those that they help.

"Actually, now is the time for us to really recognize that the operators of residential care homes should be given their due. At this time, I also would like to thank the Chairs of both houses for a job well done. And I urge all of you to please vote for this bill. Thank you."

Representative Kawanakoa then rose in support of the measure and asked that the remarks of Representatives Cachola, Arakaki, and Pendleton be entered into the Journal as if his own, and the Chair "so ordered." (By reference only)

Representative Abinsay then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Abinsay's remarks are as follows:

"Mr. Speaker, I rise in support of H.B. 1966 HD 2, SD 2, CD 1 - relating to expanding adult residential care homes.

"Mr. Speaker, this bill would require the Department of Health to develop and adopt a social model of health care to ensure the quality of service for the safety and welfare of individuals placed in adult residential care homes. The social model of care shall be designed to protect the health, safety, civil rights and most importantly, the right of choice of the patient to reside in a nursing facility or in a community-based care facility.

"Mr. Speaker, this measure will also provide, effective July 1, 1999, that adult residential care homes be expanded to admit patients needing a higher level of care and that ARCH operators be reimbursed based on the patient's disability.

"This bill went through a lot of changes. I would like to thank the Chair and the Co-Chairs of the Committees on Human Services and Health, respectively, for their leadership in finalizing the bill in its final form. I would also like to thank the Finance Chair, Representative Calvin Say, and the members of the Finance Committee

as well as the Senate Human Services Committee Co-Chair, Senator Suzanne Chun Oakland.

"Thank you, Mr. Speaker."

Representative Ahu Isa then rose in support of the measure and asked that the remarks of Representative Arakaki be entered into the Journal as if 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. 1966, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," passed Final Reading by a vote of 50 ayes, with Representative Ward being excused.

At 3:44 o'clock p.m., Representative Kawanakoa asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:46 o'clock p.m.

Conf. Com. Rep. No. 113 and H.B. No. 1433, HD 2, SD 3, CD 1:

Representative Okamura moved that Conf. Com. Rep. No. 113 and H.B. No. 1433, HD 2, SD 3, CD 1, be recommitted to the Committee on Conference, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"Mr. Speaker, just an inquiry of the Majority Leader. If you could please explain, for what purpose would he be recommitting this measure?"

Representative Okamura responded: "Mr. Speaker, the measure is being recommitted to correct technical errors."

The motion was put to vote by the Chair and carried, and Conf. Com. Rep. No. 113 and H.B. No. 1433, HD 2, SD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were recommitted to the Committee on Conference, with Representatives Abinsay, Aiona, Chang, Herkes, Kanoho, Nakasone, Say, Souki Suzuki, Tom, Ward, Yonamine and Yoshinaga being excused.

Conf. Com. Rep. No. 114 and H.B. No. 2675, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2675, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"The purpose of this bill is to improve consumer protection and increase government efficiency, and professional and vocational regulatory processes. That was supposedly the reason. When this bill first came out, it would have eliminated around 50 professional boards and commissions. And as it went through the process and was amended, we got down to where we are now where they will eliminate the boards of -- let's see four boards -- the Barber and Cosmetology, the Dental Examiners, the Board of Speech Pathology and Audiology, and the Board of Osteopathic Examiners.

"As soon as it went through conference, it became very clear that one of the major targets was dentistry and there was a great desire to eliminate the licensure exam here in

Hawaii. Now we are down to having a study done by LRB which will determine whether this will have any effect on the quality of dentists here, whether it will be in the consumer's best interest. Right now the State of Hawaii has a good exam. It's been evaluated by an impartial and independent consultant as being fair, valid, and this same group holds Hawaii's dentists to the highest professional standards.

"If one of the reasons for passing this bill is to save money, there's not much money spent on the State conducting the exam here. But with a small increase in the examination fee, we could allow the licensing exam to be administered without any financial assistance from the State. Our present fee is 80 percent lower than the Western regional board fee.

"I'm really concerned that this bill could have a disastrous effect on the delivery of dental care in Hawaii. Hawaii's citizens deserve the highest quality of dental care and the elimination of this exam would jeopardize patient care. I realize that we have had some communications from the Hawaii Dental Association saying that they go along with this bill because this is one of those incremental bills. It's been changed now. We're not going to eliminate the exam 'right off the bat.' We're going to wait till the study comes in, in the year 2000. So I can see that they feel like they're kind of off the 'hot seat'. But we're moving in that direction and that's what concerns me.

"I think we should be looking for consumer protection. We live in the middle of the Pacific. We have immigrants come from many other countries who want to live in Hawaii as part of the United States. The opportunities here are great. We don't really know the nature of their dental schools and what they're taught. With the test that goes on in Hawaii now, the Dental Examiners actually help with a part of the exam. To be a dentist, you have to have very good manual dexterity, small motor skills. There are many people who can pass the written exam but don't really have the qualities to be a good dentist. And that's something that concerns me.

"I'm afraid the corporate mainland dental companies will be free to establish clinics and bring an endless string of temporary mainland dentists as workers. Ultimately, Hawaii's people will be adversely affected. There seems to be a concern that too many people say our tests may not be fair, it's too difficult, too many people fail. Many have failed, but many have passed. Many have tried again and finally passed. The passing rate of less than 70 percent should not be a concern because the out-of-state success rates for other state dental boards is typically 50 percent or less due to regional differences in education and technique.

"I think our job here is to pass laws that protect the consumer and that should be foremost in our minds. This doesn't do what the dentists were afraid of, but it's moving in that direction, and for that reason I'll have to vote no.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support of the bill and the only reservation that I have is that it doesn't go far enough. When the bill started out, we were going to get rid of about 17 boards and commissions, which we should have eliminated, based on the advice of DCCA and the Legislative Auditor. These boards don't protect the public. DCCA protects the public.

"When you have these people, professions, running around administering exams, they have a vested interest in who passes and who doesn't. You know, what really bothers me is that I hear from both sides of the aisle: 'we have to deregulate business, we have to let business work.' And you know what happened in this case? Fifteen, sixteen, seventeen boards and commissions that we were going to get rid of, business came in and opposed every single one of them -- everyone of them. Either they've got to believe in deregulation or be honest about it. And I'm fed up with it."

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

"I think that given the concerns about this bill, I need to address, in a detailed fashion, several important points in regards to the bill which justify passing it out of the Legislature this session.

"First of all, as the Representative from the Windward side had correctly pointed out, the Conference Draft 1 that is before you makes substantial amendments to this bill, which makes it a more fair and balanced measure. A clear indication of that is the fact that when the bill crossed over from the Senate and into conference committee, the bill contained about 200 pages. As you can see, we've whittled it down to 63 pages.

"In regards to the concerns of the dentists, let me briefly say that when the Senate draft version of this bill went into conference, I shared the concerns of the dentists who strongly opposed the repeal of the State constructed dental exam. In conference negotiations, House conferees took a very strong position that we would not support passing out any bill that immediately repealed the State constructed dental exams that did not meet with the approval of the organization that represents the dentists, in this case the Hawaii Dental Association.

"So given this firm House position, the Senate conferees agreed to make major and substantial amendments to the bill which had been incorporated into the conference draft and which, for the information of my colleagues, the Hawaii Dental Association lobbyists and representatives have indicated they found acceptable.

"These amendments include retaining the State constructed exam required for licensure of dentists, in lieu of repealing the State constructed dental exam, although it would require the LRB to conduct a study of the licensing examination used by the Board of Dental Examiners.

"The bill would also require the LRB to conduct a study of a direct payment and equal reimbursement law pertaining to health insurance coverage for dental services, which has been a top priority for the dental community. Moreover, we have changed the effective date for the repeal of the Board of Dental Examiners to July 1, 2000, to give the Legislative Reference Bureau adequate time to evaluate whether the Board should remain in existence.

"I would like to emphasize that this amendment to delay the repeal date of the Board was proposed by the representatives of the Hawaii Dental Association. They proposed it to the House conferees in discussions that we had with them indicating that if we had this amendment they could live with the bill. In addition, your Chair received a letter from the Legislative Chair of the Hawaii Dental Association which proposed the same amendment to delay the effective date and nowhere in this letter or in constant negotiations did the Hawaii Dental Association express any opposition to the Conference Draft 1 that we came up with.

"Now, I'd also like to clarify my intention that if the LRB finishes their study by the next legislative session, as I anticipate they can, and if, as I anticipate, the Legislative Reference Bureau will recommend that the State exam be retained and that we should not abolish the Board of Dental Examiners, I would exert my best efforts to ensure that the State dental exam will not be repealed and to fight any efforts to avoid taking out the repeal date in regards to the Board of Dental Examiners.

"Now in regards to whether there is a need to study the State dental exam and the Board that will administer them, let me point out that the Department of Commerce and Consumer Affairs strongly supports the study. It is the Department's belief that the high failure rates, in regards to the State exam since 1992, present warning signs that the exam may be 'protectionist' in nature and could subject the State to future litigation on the basis that the exam constitutes a restraintive trait.

"The DCCA is especially concerned because the State dental exam, for your information, got this State in 'hot water' back in 1976 when certain advocates for licensure sued the State of Hawaii and the Board of Dental Examiners on the basis that the State dental exam was unfairly discriminatory and violative of the equal protection clause of the United States Constitution. But I bring to my colleagues attention, a copy of a pleading which makes specific reference to that particular lawsuit.

"The end result of that litigation was that, in 1980 the State of Hawaii entered into a consent decree, along with the Board of Dental Examiners, in which the State paid \$300,000 to those who had initiated the lawsuit. As part of the consent decree, the State agreed to have an impartial observer evaluate the State dental exam to ensure compliance with the provisions of the consent decree and to identify problem areas that needed correction.

"Now in light of this past litigation in which the State was embroiled, DCCA continues to have major concerns about the State dental exam. And to stay on those concerns, let me briefly read to you excerpts from a letter that I received from the Director of DCCA, Ms. Cathy Matayoshi, dated May 4, 1993, and she explains the problem..."

At this point, Representative Lee yielded her time to Representative Menor.

Representative Menor then continued, stating:

"She says as follows: 'As noted in the Department's testimony, we have concerns with all State constructed examinations to assure fairness and quality of the examinations. The dental examination has been the subject of scrutiny in the past. And as a result, we have benefited from recommendations from the independent and impartial observer who reviews the examinations and makes recommendations. Not all recommendations, however, have been accepted and adopted by the Board.

'In addition, the ongoing low pass rate and non-adoption of the recommendations by the independent observer have raised legal concerns for the Department with respect to the exam. The passing rates since 1992, with the exception of the February 1994 examination, went below 68 percent and as low as 36 percent for graduates of accredited dental schools. They cannot explain why these same accredited dental school graduates have a passing rate above 70 percent on their national boards and exam and why other graduates of accredited dental schools consistently perform satisfactorily are passing with the rate of 70 percent or higher when they

switch from another dental regional licensing examination.

'We believe a study of the State dental examination, one of only 10 of the new elimination, by impartial bodies such as the Legislative Reference Bureau, will be of great value.'

"I also note some statistics in regards to the past failure rates of local kids who are graduating from accredited dental institutions and look at the disparity in the pass/failure rates in terms of the State dental exam relative to the national exam. In 1992, the pass rate was over 57 percent. On the National Board Exam 1 was 84 percent. -A National Board Exam 2 was 87 percent. On the Western Regional Board was over 72 percent.

"In 1996, the pass rate for the Hawaii dental exam was 41 percent. These same graduates that are taking the National Dental Board Exam 1 are passed by a rate of 86 percent while the National Board Exam 2 was 79 percent. And the Western Regional Board was 85 percent.

"In 1997, the pass rate was 49 percent on the State Dental Exam; National Dental Board Exam 1 was 76 percent; National Dental Board Exam 2 was 85 percent; and the Western Regional Board Exam 84 percent.

"Now I think that these statistics raise warning signs and not forced to conclusively impugn that to say that the dental exam is wrong, it should be repealed; but rather, to at least merit a study to determine whether or not the State exam is valid and, most importantly, to assure that the State of Hawaii is not going to be subjected to litigation once again.

"Another point that I'd like to correct is the fact that we are not just targeting dentists in the bill. If you look at the other provisions of the bill, we have made some changes and improvements to the State chiropractic exam. There are a number of other bills that make further improvements to the State constructed exams relating to landscape architects, land surveyors, and veterinarians. So we're looking at this exam from an objective, impartial basis, and clearly we ought to determine whether the State dental exam should be further evaluated.

"In closing, I think that there are adequate justifications for us to move out this particular measure. I think it's pro-consumer, it's fair, and accordingly, I would respectfully request my colleagues to vote in favor of this bill. Thank you."

Representative Kahikina then rose and stated:

"Thank you, Mr. Speaker. After hearing our Chairman from CPC deliver his comments, I stand in opposition of the bill. And actually, Mr. Speaker, I'm speaking on behalf of the consumer. Someone like me that 15 years ago a 'quack' worked on me who possibly didn't pass the exam and I suffered pain, excruciating pain. And we're talking about a dentist that might slip a needle in you that might affect your jaws and be swollen for months. That's why I'm voting against this. We're lowering the standards. And if we're doing that, we might as well say that anybody can get a driver's license without passing the test.

"When will it stop? We're lowering standards right now. We're talking about people's lives. We're talking about if you can't eat, you'll affect your whole health. And if we're supposed to be the health state of the nation, it starts when you put that food in your mouth and it starts with your teeth. I'm not a lawyer. I'm not a dentist. And I'm quite sure the people in the Legislative Reference Bureau are not dentists, but they're going to

make the decision. It worries me. A non-dentist is making the decision that is going to affect a dentist's approval, and in turn, might work on my child or on me. I hope that that dentist who didn't pass their test worked on somebody who voted for this bill. Perhaps you should go and see that dentist. I urge everybody to vote no."

Representative Menor then rose to speak in rebuttal, stating:

"Just a few brief additional remarks about the bill. I won't be repetitive. There is another point that is very important that needs to be made. I would urge my colleagues to focus on the original purpose and language of this bill. Putting aside the provisions of the dentists and boards and commissions, we did move this bill out to the Senate because we wanted to include or pass out provisions to address a very serious problem affecting our construction industry.

"I note for my Committee members and for my colleagues' information that there are provisions in this bill that would specify that the practice of material houses in providing performance bonding for contractors so that homeowners can qualify for home improvement loans is not subject to regulation under the insurance code. If these provisions are killed because you have concerns about other aspects of this bill, proponents have warned that our failure to pass these provisions would have a devastating effect on homeowners and our construction industry.

"For example, in written testimony from the Building Industry Association of Hawaii, they note: 'Obtaining a residential bond from a material house has been a long standing practice in Hawaii and has helped our contractors provide homes for our people. If this practice is not allowed to continue, we see adverse ramifications to our residential construction industry and our beleaguered contractors. This bill clarifies existing laws that would allow contractors to continue to obtain material supply house residential bond.'

"Well, the material house has also submitted testimony. They say: 'If this bill fails to pass, the additional liability caused by these interpretations will likely result in building material suppliers to discontinue providing material house bonds. The effect of this will be damaging to our already sagging construction industry by putting small contractors who can't qualify for commercial bonds out of business and driving up the cost of construction.'

"And we also received testimony in support of this bill from the Hawaii Banker's Association who indicated 'that mortgage home improvement loans could be endangered if we don't pass this bill out.' So because we're so concerned about economic development, I say this is not only a pro-consumer bill, it's a pro-economic development bill, and I respectfully request your favorable consideration of this bill. 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. 2675, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION," passed Final Reading by a vote of 34 ayes to 16 noes, with Representatives Arakaki, Fox, Halford, Hiraki, Kahikina, Kanoho, Kawanakoa, Marumoto, McDermott, Meyer, Morihara, Morita, Moses, Pendleton, Tarnas and White voting no, and Representative Ward being excused.

Conf. Com. Rep. No. 115 and H.B. No. 2870, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2870, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Takamine voting no, and Representative Ward being excused.

Conf. Com. Rep. No. 116 and H.B. No. 3437, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3437, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDING THE HAWAII HURRICANE FUND," passed Final Reading by a vote of 50 ayes, with Representative Ward being excused.

Conf. Com. Rep. No. 117 and H.B. No. 2823, HD 1, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2823, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Final Reading by a vote of 50 ayes, with Representative Ward being excused.

The Chair directed the Clerk to note that H.B. Nos. 2786, 503, 1966, 2675, 2870, 3437 and 2823 had passed Final Reading at 4:07 o'clock p.m.

At 4:07 o'clock p.m., Representative Arakaki asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 4:14 o'clock p.m., the Speaker resumed the rostrum.

Conf. Com. Rep. No. 118 and H.B. No. 2680, HD 2, SD 1, CD 1:

Representative Okamura moved that Conf. Com. Rep. No. 118 and H.B. No. 2680, HD 2, SD 1, CD 1, be recommitted to the Committee on Conference, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"I'd like to speak against the motion."

The Chair responded: "For recommitment, please proceed, and you have not been recognized. You're recognized now, Representative Marumoto."

Representative Marumoto continued, stating:

"Thank you, Mr. Speaker. I'm concerned about this bill because we consider it an excellent measure having to do with student-centered schools..."

The Chair interrupted Representative Marumoto, stating:

"Will you please speak on the basis of the recommitment."

Representative Marumoto continued, stating:

"Well, I'm afraid if we recommit the bill regarding Lanikai and Waialae Schools, that we may never see the measure again. Hopefully, it is only for technical reasons and the conference committee will correct the errors and

pass it out again. But it's a very important measure and we're hoping to see it again. Thank you."

The motion was put to vote by the Chair and carried, and Conf. Com. Rep. No. 118 and H.B. No. 2680, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT-CENTERED SCHOOLS," were recommitted to the Committee on Conference, with Representatives Aiona and White being excused.

At 4:16 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:17 o'clock p.m.

Conf. Com. Rep. No. 119 and H.B. No. 3446, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 120 and H.B. No. 3033, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3033, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"This bill is regarding corrections and the establishment and use of the private sector in our correctional system. I think it's a well crafted measure. We're moving in the right direction. It's very rewarding to see that our State has finally begun to use or look to the private sector for some of the cost-saving measures that we could implement so that we can address the overcrowding problem and the lack of prison space to take criminals off the street.

"Again, I'm very encouraged that this Legislature has moved in this direction and would encourage that we continue to progress with the use of the private sector as a tool, where appropriate, within our government.

"Thank you, Mr. Speaker."

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

"A historical footnote of what, maybe the last three or four years we've stood up and we've talked about this, and I know some of our colleagues on the other side of the aisle were calling us crazy. It was impractical. It's not feasible. It's undoable. And, Mr. Speaker, we've arrived at that day. It's a glorious day to say that we can have corrections facilities privatized. We can save money. We can, in effect, keep the people of Hawaii safe without having a lot of expenditures out of the cash of which now in the general fund is very low.

"So this is a great day and one I think for particularly the members of the Minority. We can be very proud of having not wavered but, hopefully, as we get up we're reasonably persuasive. And, Mr. Speaker, sometimes it takes four years for what I'm saying to maybe get through to yourself and others, but we've done it. So thank you very much."

Representative Tom then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tom's remarks are as follows:

"Mr. Speaker, this bill is designed to relieve the over crowding of our correctional facilities by giving the Governor the authority to contract for a new prison.

"Mr. Speaker, the safety and welfare of the general public is the primary purpose for which government is formed. In the last six years, under your leadership, this House has proposed and adopted criminal laws which have focused on ensuring that whenever a criminal is convicted, he will be sentenced to an appropriate term of imprisonment. The convict's stay in jail both ensures the protection of the public and, at the same time, forces the inmate to reexamine his life and rehabilitate himself before he is granted permission to return to the community.

"These new laws have achieved a remarkable success. But they have come at a price, and that price is prison overcrowding. When you first became Speaker, less than 3,000 convicts were serving time in jail. Under the tough anti-crime measures we have passed, the number of inmates have increased to well over 4,000.

"But even with these numbers, we have heard testimony in the Judiciary Committee that many criminals who have been sentenced to prison for lesser offenses are turned away at the door, because there is no room to house them.

"Yet, even in the face of these facts, the Judiciary Committee has been criticized by some for refusing to adopt laws which will make our prison population balloon to unmanageable proportions.

"Mr. Speaker, we need prison space for every criminal who deserves to be there. But your Judiciary Committee has refused to engage in the irresponsible and deceptive game of passing laws which cannot be enforced for lack of prison space.

"With this bill, the Governor will have the ability to enter into contracts for the development of a privately-constructed correctional facility on public or private property, and to arrange for the lease or purchase of the correctional facility by the State.

"With the adoption of this measure, our prison capacity will expand to a level which is finally adequate to give teeth to the laws which we have passed over the last six years.

"This bill supplies the missing piece in our six-year effort to reform our criminal who deserves to be incarcerated goes to prison and stays in prison until the public safety can be ensured."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3033, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Final Reading by a vote of 49 ayes, with Representatives Aiona and White being excused.

Conf. Com. Rep. No. 2 and S.B. No. 2770, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2770, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Final Reading by a vote of 48 ayes to 1 no, with Representative McDermott voting no, and Representatives Aiona and White being excused.

Conf. Com. Rep. No. 3 and S.B. No. 2135, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2135, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNFAIR AND DECEPTIVE TRADE PRACTICES," passed Final Reading by a vote of 49 ayes, with Representatives Aiona and White being excused.

Conf. Com. Rep. No. 4 and S.B. No. 2575, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2575, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," passed Final Reading by a vote of 49 ayes, with Representatives Aiona and White being excused.

Conf. Com. Rep. No. 5 and S.B. No. 2833, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2833, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE LEASE DISCLOSURE," passed Final Reading by a vote of 49 ayes, with Representatives Aiona and White being excused.

Conf. Com. Rep. No. 6 and S.B. No. 3114, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3114, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RENTAL HOUSING TRUST FUND," passed Final Reading by a vote of 49 ayes, with Representatives Aiona and White being excused.

The Chair directed the Clerk to note that H.B. No. 3033 and S.B. Nos. 2770, 2135, 2575, 2833 and 3114 had passed Final Reading at 4:20 o'clock p.m.

Conf. Com. Rep. No. 7 and S.B. No. 3035, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3035, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

Conf. Com. Rep. No. 8 and S.B. No. 1597, SD 1, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 1597, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. I just wanted to let you know and our colleagues here know what an important measure this is to improve our enforcement of aquatic resource laws in this State and aquatic resource rules and regulations.

"Mr. Speaker, our near-shore marine resources are definitely under stress because of population growth which affects not only the use, but also the impacts from run-off onto our near-shore resources. And it's important, as you've seen in recent newspaper reports, to enforce our laws. Strong enforcement is essential to the protection of our marine resources. This bill, Mr. Speaker, now allows the DLNR to proceed with enforcement through civil penalties, in addition to criminal penalties and criminal violations that they can do already.

"By doing it through civil penalties, Mr. Speaker, we will have a far more effective enforcement within the DLNR, and the marine resources of this State will benefit. Thank you very much, Mr. Speaker."

Representative Whalen then rose to speak in opposition to the measure, stating:

"Kind of odd that adjoining Representatives are taking opposing positions on this bill. However, I don't oppose this bill directly for the reasons that the Representative from North Kona/Kohala mentioned. My opposition stems from my experience as a prosecutor and to the extent that this bill goes in terms of creating penalties, which are truly onerous. I'm offended in my sense of justice that somebody could be prosecuted criminally for something and then as this bill says, 'in addition to any criminal penalty, the civil penalties will apply.' And not only are they applied, but the person that is being fined has to pay for the lawyer who is attacking them to pay the fines and also pay for administrative fees that it costs in order to pursue them.

"Mr. Speaker, I am concerned about our environment. I think that some of the bills that I introduced would certainly go to show that. However, this bill, in addition to its extensive penalties, calls for under section (e) 'in addition to subsection (c), a fine up to \$1,000 may be levied for each specimen of all other aquatic life taken...under subtitle 5 of title 12.'

"Mr. Speaker, I looked that up and that includes things like net sizes, species in season or out of season. In other words, I'll use an example, anyone that's grown up in Hawaii and has caught those little clear shrimps where you know that you just flip open a rock and you quickly stick your net underneath and scoop it up. Well, if you grab something that's not viral or you're just not sure what's in season or out of season, each one of those shrimps is one particular offense.

"Any rule the Department adopts, Mr. Speaker, I won't go on, but the penalties here are so severe. And again, I go back to an earlier statement that was made that DLNR has not proven itself to understand how to protect our environment nor write rules that they can enforce to protect it. And from my experience as a prosecutor, their enforcement officers don't understand what it takes to make a case or the discretion in terms of who to let go and who to bust.

Mr. Speaker, I oppose the bill because we have given DLNR, the Department, a 'bazooka' to blow out of the water whoever they see fit. Yet, they haven't shown that they even know how to use a 'slingshot.' So for those reasons, I oppose the bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1597, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES PENALTIES," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Whalen voting no, and Representative Aiona being excused.

Conf. Com. Rep. No. 9 and S.B. No. 2655, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2655, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BICYCLE AND MOPED REGISTRATION," passed Final Reading by a vote of 49 ayes to 1 no, with Representative McDermott voting no, and Representative Aiona being excused.

Conf. Com. Rep. No. 10 and S.B. No. 3137, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3137, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

Conf. Com. Rep. No. 11 and S.B. No. 2559, SD 2, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2559, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXPLOSIVES," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

Conf. Com. Rep. No. 12 and S.B. No. 2136, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2136, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR CONTROL ADJUDICATION BOARD," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

Conf. Com. Rep. No. 13 and S.B. No. 1065, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1065, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTION OFFENSES," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

Conf. Com. Rep. No. 14 and S.B. No. 3113, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3113, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading by a vote of 50 ayes, with Representative Aiona being excused.

The Chair directed the Clerk to note that S.B. Nos. 3035, 1597, 2655, 3137, 2559, 2136, 1065 and 3113 had passed Final Reading at 4:25 o'clock p.m.

Conf. Com. Rep. No. 15 and S.B. No. 3159, SD 2, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3159, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TIME SHARE LAW," passed Final Reading by a

vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 16 and S.B. No. 2717, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2717, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 17 and S.B. No. 2786, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2786, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SEX OFFENDER REGISTRATION," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 18 and S.B. No. 2414, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2414, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

Representative M. Oshiro's remarks are as follows:

"I vote in support of SB 2414 SD1 HD1 CD1, which puts an end to a lending scheme from the Mainland which is now taking place in Hawaii known as 'auto pawns'. This is an attempt by lenders to circumvent usury laws and the regulatory requirements for financial services companies. In addition, this bill adds a prohibition on accepting a pledge of negotiable instruments.

"Currently, this is how the 'auto pawns' scheme works: 1) the consumer retains vehicle but gives the pawnbroker the title to the vehicle; 2) in exchange for the title, the consumer receives a 30 day loan of up to 1/2 the wholesale blue book value of the vehicle; and 3) the consumer must pay an annual interest rate of 240%.

"The problem with 'auto pawns' is that it violates the original intent of permitting pawn interest rates to be higher than finance company rates because pawnbrokers have to take actual physical possession of the pawned item and incur costs associated with storage and insurance. However, in 'auto pawns', the consumer only pawns the title to the vehicle and never relinquishes actual possession of the vehicle to the pawnbroker. Thus, the pawnbroker never incurs any costs for storage or insurance on the vehicle.

"Another problem with 'auto pawns' is that in regular pawn transactions, a consumer who pawns a ring or television set relinquishes possession and has made a conscious decision that he can do without the item. The pawn may result in a sale, and most often does. However, in 'auto pawns', its questionable whether the consumer ever really intended to relinquish possession or title.

"The Legal Aid Society of Hawaii has received complaints from people who have entered into 'auto

pawns' where the pawnbroker has refused to accept the payment for the loan and demanded the vehicle from the consumer. In one case, an unemployed man borrowed \$300 on a car having a fair market value of \$10,000. Other cases involved loans of \$1,500 - \$2,000 ranges on cars with a value of \$7,500 - \$10,000.

"In fact, even the Hawaii Pawnbrokers Association testified in support of this bill stating that it believes that 'car title pawns' ['Auto Pawns'] to be in conflict with basic consumer protection and may even violate State and federal laws."

"As a matter of public policy, the loss of a motor vehicle, a boat, or a home in a pawn transaction directly impacts a consumer's fundamental requirements of shelter, livelihood, and transportation. As a former Legal Aid attorney practicing in the area of consumer rights, I understand the reality and harsh effects of this scheme. The public needs to be protected from these schemes and should be afforded the rights under the usury laws and other regulatory requirements for financial services companies. 'Auto pawns' are really clearly disguised loans, except that the consumer has none of the repossession protections that are available in a normal secured transaction.

"For the following reasons, I wholeheartedly support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2414, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 19 and S.B. No. 2469, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2469, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 20 and S.B. No. 2588, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2588, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERINARY MEDICINE," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 21 and S.B. No. 2602, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2602, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LANDSCAPE ARCHITECTS," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

Conf. Com. Rep. No. 22 and S.B. No. 2823, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2823, SD 1, HD 1,

CD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARE IDENTIFICATION BADGES," passed Final Reading by a vote of 48 ayes, with Representatives Aiona, Goodenow and Jones being excused.

The Chair directed the Clerk to note that S.B. Nos. 3159, 2717, 2786, 2414, 2469, 2588, 2602 and 2823 had passed Final Reading at 4:26 o'clock p.m.

Conf. Com. Rep. No. 23 and S.B. No. 2411, SD 2, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2411, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Final Reading by a vote of 48 ayes, with Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 24 and S.B. No. 3043, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 3043, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Ito rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ito's remarks are as follows:

"Thank you, Mr. Speaker. We are 19 months away from potential chaos, lawsuits and serious financial risk, all because of a computer system error. However, the passage of this bill would grant immunity to persons, including the State, counties, boards and government agencies from liability resulting out of or based on errors produced, calculated or generated by a computer system that is not year 2000 compliant.

"This bill would act as a safeguard from litigation while the State and the private sector work to correctly solve the problem and upgrade the computer systems so as to comply with year 2000 standards. This bill provides immunity for failure or errors that occur prior to June 30, 1999.

"Mr. Speaker, this State is not alone when it comes to this computer error. In a recent front page newspaper article, the Federal Reserve estimated that repairing the computer glitch could cost the United States at least \$50 billion and perhaps \$300 billion worldwide. If it isn't corrected, computers throughout the world will produce errors, cause slowdowns or even just shut down completely.

"If we fail to pass this bill out today, we invite the chance of countless lawsuits against the State, further crippling our economy. I urge everyone to support this measure.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3043, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT COMPUTER SYSTEMS WHICH ARE NOT YEAR 2000 COMPLIANT," passed Final Reading by a vote of 48 ayes, with Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 25 and S.B. No. 2078, SD 1, HD 3, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2078, SD 1, HD 3, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Ito then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ito's remarks are as follows:

"Thank you, Mr. Speaker. Specifically, this bill lowers the cost of the transfer fee for a commercial use and operator permit from no less than 10% to no greater than 6% of the transfer price. It also increases the maximum time period during which a person may renew a commercial use operator permit from 10 to 20 years.

"This bill also enhances a similar measure (Act 4) recently signed by the Governor. It provides for periodic review and amendments to the Kaneohe Bay Master Plan relating to ocean use activities and prohibits DLNR from implementing any provisions of the Master Plan until the rules are adopted.

"Mr. Speaker, I am proud to have Kaneohe Bay in my backyard. It is a valuable resource for countless individuals and groups who look upon it as their livelihood. Local fishermen and commercial users of the Bay all agree that the Bay must be protected and preserved so later generations will be able to enjoy the beauty of it. Thank you."

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

"Thank you, Mr. Speaker. I'd like to refer, Mr. Speaker, to the section in the bill and Kaneohe Bay Master Plan. This, for your information, Mr. Speaker and for my colleagues' information, makes some amendments to Act 4, which was signed into law just a few months ago, to clearly authorize the Kaneohe Bay Regional Council to suggest amendments to the Kaneohe Bay Master Plan and that the DLNR would be able to incorporate such recommended changes, if they so choose to, into rules.

"By doing this, we have really made sure that the Kaneohe Bay Regional Council process will work. And I think we should be very proud of this measure because what we're doing is making sure we empower our community to take care of its own resources in cooperation with and alongside the State government agencies who are responsible for doing this. So it's a very, very positive bill.

"The other part of this bill, Mr. Speaker, is a very pro-business bill by reducing the percentage of the transfer fee and extending the term of the commercial licenses. And I think that's a very important thing to support ocean recreation industry as well.

"Thank you very much, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2078, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION," passed Final Reading by a vote of 47 ayes to 1 no, with Representative McDermott voting no, and Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 26 and S.B. No. 2256, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2256, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BARBERS POINT HARBOR," passed Final Reading by a vote of 48 ayes, with Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 27 and S.B. No. 2759, SD 2, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2759, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Final Reading by a vote of 47 ayes to 1 no, with Representative McDermott voting no, and Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 28 and S.B. No. 2957 SD 2, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2957, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I want to thank Chair Tom and thank the Senate for finally agreeing to have this new procedure for taking posters off of the poles in our neighborhood. I want to thank the Senate for finally coming around, and thanks, Senator Tam, for allowing us to use his bill as a vehicle. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2957, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OUTDOOR ADVERTISING," passed Final Reading by a vote of 47 ayes to 1 no, with Representative Kanoho voting no, and Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 29 and S.B. No. 2454, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2454, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION," passed Final Reading by a vote of 48 ayes, with Representatives Goodenow, Jones and Pendleton being excused.

Conf. Com. Rep. No. 30 and S.B. No. 2768, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2768, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PAYMENTS TO HEALTH CARE PROVIDERS FOR WORKERS' COMPENSATION CLAIMS," passed Final Reading by a vote of 48 ayes, with Representatives Goodenow, Jones and Pendleton being excused.

The Chair directed the Clerk to note that S.B. Nos. 2411, 3043, 2078, 2256, 2759, 2957, 2454 and 2768 had passed Final Reading at 4:30 o'clock p.m.

Conf. Com. Rep. No. 31 and S.B. No. 2887, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2887, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"I simply wish to note that my objections have to do with the provisions of page 9, lines 22 through 23 to page 10, lines 1 through 2, which I believe are inconsistent with other efforts underway by the House. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2887, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AMUSEMENT RIDES, INCLUDING BUNGEE JUMPING," passed Final Reading by a vote of 45 ayes to 5 noes, with Representatives Case, Halford, Marumoto, Meyer and Whalen voting no, and Representative Arakaki being excused.

Conf. Com. Rep. No. 32 and S.B. No. 3228, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3228, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 50 ayes, with Representative Arakaki being excused.

Conf. Com. Rep. No. 33 and S.B. No. 3248, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 34 and S.B. No. 2580, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2580, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Takai rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Takai's remarks are as follows:

"Before I comment on the merits of this bill, I would like to offer some clarifications to the Conference Committee Report. In the haste of getting the bill decked, there were some statements made on the committee report that are not completely accurate.

"Mainly, the conference draft amended the House draft, which proposed to statutorily establish the Hawaii State Student Council (HSSC). The amendments cited in the conference draft were made to a proposed CD 1 that the conferees were considering on this bill.

"Therefore, the bill does more than the three items suggested by the conference committee report. The current bill statutorily establishes the Hawaii State Student Council with at least two student representatives from each departmental school district, requires that the HSSC conduct an annual conference of secondary students, and requires the HSSC to determine whether to select directly the student member of the Board of Education or to run an election to select the individual.

"Why is this bill so important? For many years (even when I was in high school), the Hawaii State Student Council and the planners for the Hawaii State Student Conference functioned as two separate entities. As you may recall, Mr. Speaker, both the planners and the student council members would typically appear before legislative committees on a few issues. What's surprised me was when the HSSC members and the conference planners would be supporting different sides of a legislative issue.

"This bill will bring the two parties together under the auspices of the HSSC. It will be the responsibility of the HSSC to create a conference planning committee, which will plan for the conference and will work hand-in-hand with the HSSC to present the findings of the conference to the Legislature, BOE, and the DOE.

"For the past few years, I have worked closely with the leaders of the conference and the council. This year, in working on this bill, I solicited their feedback. This conference draft is a result of the students' hard work. They, along with their advisors, are supporting this conference draft. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2580, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE STUDENT COUNCIL," passed Final Reading by a vote of 50 ayes, with Representative Arakaki being excused.

Conf. Com. Rep. No. 35 and S.B. No. 2297, SD 2, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2297, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, this is a really good bill because it creates a 'bill of rights' for us, the patients. These rights are so important that even a movie was made about it, 'As Good As It Gets,' starring Jack Nicholson. This bill requires a health care provider to ensure a patient's right to be fully informed prior to making any decision about any treatment, benefit, or non-treatment. It also prohibits a managed care plan from imposing any type of sanction upon a health care provider for disseminating information regarding various treatment options, including no treatment.

"It also establishes a complaints and appeals procedure for enrollees in a managed care plan. So I thank whoever introduced this bill and I ask my colleagues to vote for it.

"Thank you, Mr. Speaker."

Representative Arakaki then rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Arakaki's remarks are as follows:

"The intent of SB 2297 is laudable because it establishes certain rights and protections for participants of managed care plans and to create a task force to review various patient's rights laws and ensure that consumers of health care, under managed care plans in Hawaii, are receiving similar or greater protection than those recommended by the November 1997 report,

prepared by the Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

"There are concerns, however, that the bill will increase the cost of delivering health care with little or no improvement in the quality of that care.

"Specifically:

- (1) The bill proposes establishing an appeal process that an enrollee may use to reverse a medical management decision made by a health plan's physician, medical director and president. Health plans already have appeals processes in place that fully comply with the standards set by the Health Care Financing Administration. This process is widely in use across the nation to reach prompt and fair resolution of enrollees concerns. This proposed new process will add an additional unnecessary layer of effort and cost.
- (2) The bill proposes setting and monitoring progress against performance measurement standards. Dissemination of information will help employers and consumers in selecting a quality health plan. Nevertheless, many of the 'nationally recognized performance measurement systems' cited are difficult to objectively measure and are still 'works in progress.' Not every health plan may be able to invest in expensive computer systems required to provide the information. This may ultimately lead to higher health plan premiums that must be borne by Hawaii's businesses and employers.
- (3) The bill proposes that the Insurance Commissioner be given the authority to determine whether a health plan is able to deliver prompt, continuous care within its service area. This review is already carried out effectively by the Disability Compensation Division of the Department of Labor and Industrial Relations. The mandated additional review is an unnecessary duplication of effort.

"The bill may end up limiting competition, may be too restrictive and may be the type of overregulation that businesses say restrict economic recover. It must be remembered that managed care is a strategic opportunity to keep costs down with a minimal standard of care. However, if regulation of managed health care results in driving costs up, health care costs may again spiral upwards with no increase in quality of care."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2297, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 50 ayes, with Representative Arakaki being excused.

Conf. Com. Rep. No. 36 and S.B. No. 2460, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2460, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

Representative M. Oshiro's remarks are as follows:

"I vote in strong support of SB 2460 SD2 HD2 CD1, which provides for oversight by the State Health Planning and Development Agency and the Attorney General to

protect against the raiding of hospitals' assets by for-profit corporations via the acquisition of the hospitals. The result of passing this legislation is protecting the public's interest by ensuring the continuation of charitable healthcare benefits to the needy in the community.

"This bill is tailored after Nebraska's law that was passed in 1996 and was the only law at that time which gave authority to its Attorney General and Health Department to review nonprofit hospital sales and keep the public informed.

"At the 1997 National Conference of State Legislatures in Pennsylvania, I had the opportunity to speak with Senator Don Wesely, Chair of the Health and Human Service Committee in the Nebraska Legislature. Senator Wesely provided me with a copy of Legislative Bill 1188 that served as the nation's model legislation in the area of non-profit hospital conversions. This bill is modeled after that historic legislation, and to Senator Wesely I express my appreciation.

"Since that time, 20 or more states, including California, Arizona, Washington, Texas, Colorado and others, have enacted laws in this area. Although there have been no for-profit conversions in Hawaii, it is our duty to look forward and provide similar protection for our people and healthcare industry.

"Across the U.S., other states are experiencing a tremendous increase in the sale of nonprofit hospitals to for-profit entities such as Columbia/HCA; Tenet Healthcare Corp.; and Universal Health Services. Billions of dollars worth of community hospital assets have been sold over the last several years.

"The motivating factor behind non-profit hospital conversions appears to be the growing need for non-profit hospitals to raise capital that will keep them competitive in today's healthcare business environment. Hospitals are becoming increasingly more competitive with one another in dealing with less managed care dollars in light of increasing debt. Managed care typically allows less overnight hospital stays and requires less expensive outpatient care. As a result, hospitals are experiencing more surplus beds which translates into lost revenue. Health care analysts estimate that in a fully managed care environment, the U.S. will need an average of only 2.6 hospital beds for every 1,000 persons, however, today it is estimated that there is an average of 8.4 beds for every 1,000 persons. One can infer that this translates into half of America's hospital beds that may become unnecessary.

"Today, nonprofit hospitals have evolved into important 'safety net', non-governmental institutions that continue to provide medical services to the underinsured and uninsured people in our communities. Many of these hospitals consider it their primary mission to provide healthcare services to the neediest in their communities. In addition, many nonprofit hospitals have been granted tax exemptions due to their charitable mission and have large amounts of charitable assets. It is our duty to ensure that upon sale, these monies will be given to another nonprofit organization to continue the mission related to the delivery of health care services.

"On the other side of the spectrum, the for-profit hospitals' main purpose is to make a profit, not providing a service to their community. Unlike non-profit hospitals, for-profit hospitals must answer to their stockholders and not to the community in which they are located. Without any state oversight, for-profit entities that convert or purchase Hawaii's hospitals may choose to eliminate services that are not profitable, liquidate hospital assets, or turn away people who are unable to pay for their

services, and obtain valuable charitable assets for less than the fair market price.

"I agree with the broadening of this bill to extend protection to all hospital sales, except for public health facilities under the Hawaii Health Systems Corporation. This bill will allow us to protect the public's interest and to ensure continued access to care by creating processes which: (1) open the conversion process to the public; (2) strengthen oversight authority by the Attorney General and the State Health Planning and Development Agency; and (3) ensure that certain proceeds from the sale are used appropriately for the public good.

"We must be mindful that hospitals are resources that belong to our communities. Existing for-profit and nonprofit hospitals have provided much relied upon health care services to our communities. In addition, it is important for us to preserve health care services for the indigent, underinsured, and the underserved communities for Hawaii's future generations.

"As a board member of Wahiawa General Hospital and Wahiawa Hospital Association, a nonprofit hospital in my community, and a concerned legislator, I believe that this measure is timely and appropriate in protecting the public's interest in the availability of health care in Hawaii. For the foregoing reasons, I fully support this measure."

Representative Kawanakoa then rose to speak in opposition to the measure, stating:

"Thank you. You know there was a time when the State reviewed and approved the sale and acquisition of businesses, Mr. Speaker. Fortunately, the planned economies of the Soviet Union are now history. I'm not sure why government should tell the private sector what and when they should buy or when they can sell. I don't believe this is a good area for us to be inserting our jurisdiction. I think our non-profit organizations and hospitals that they run are capable of making that decision and are clearly, by their nature, have the best interest of the public at large.

"Thank you, Mr. Speaker."

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

"I was going to insert this for the record, but I think I'll read my statement.

"According to the Government Accounting Office, between 1990 and 1996, 192 not-for-profit hospitals converted to for-profit status. Not-for-profit hospitals benefit from exemption from federal, state and local taxes and access to tax-exempt bond financing. In return they provide uncompensated care to uninsured people and other public health services. This long-term community investment of foregone revenue is lost when a hospital converts to for-profit status.

"Services critical to low-income women such as family planning, HIV, and STD clinics, which are not considered profitable, could be eliminated by a hospital that does not have a role preserving community care.

"For this reason, I am in favor of this bill. And I believe that review and approval by SHPDA and the Attorney General prior to the acquisition of hospitals is necessary and important to protect the community's investment in a local health care facility. Thank you."

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

"I'd like to, before I begin my brief remarks, ask that the words of the Representative from Mililani be entered into the Journal as if they were my own," and the Chair "so ordered." (By reference only)

Representative Santiago continued, stating:

"I think they sum it up quite well. But I also wanted to add that I think it's important that we learn from the mistakes that have been made by some of the states on the mainland which did not have these kinds of statutes in place when the frenzy of purchasing occurred in those areas. And they are now suffering as a result. So I think this is a very important measure that we have in place.

"Thank you, Mr. Speaker."

Representative Kawanakoa then rose to speak in rebuttal, stating:

"You know I find it hard to believe that here we are trying to discuss the fact that the government should be in charge of what the private sector should do. I think the whole point that we've given them this great tax break so they'll go out and do our job for us in the private sector is something that they owe us again now at this point as we perhaps try to convert into a private hospital. I'm certainly for continuing appropriate services for the general public, again Mr. Speaker, but with respect to mandating that the government get involved in condoning or not condoning various sales seems to be an overreach of our government.

"I also find it difficult to understand why we would assume that all of these hospitals have been paid for by government subsidies. Just because they're non-profit, many of these hospitals were provided for by people who came to a large bequest, whether it be while they're living or through their wills and testaments. In that respect, I think these private entities have a life of their own. They're not ours to do with as we please.

"I clearly understand that they have certain parameters and must function within that in order to avail themselves of the non-profit status, and therefore, get the tax reductions or not have to pay various income taxes. But to that extent, they've already paid their dues. They've made their contributions to society and that's why we allow them this exempt status. Beyond that, I think it's a bit of an overreach for our government to be jumping into the private sector in monitoring hospitals. What's next? What other private entity, education or institutions, I guess, private ones? Maybe we should have the Attorney General decide if an institution is going to go into a private being sold for-profit institution, then we should allow that and assert ourselves into that area or into that negotiation.

"I just find we're overreaching on this measure. I think there's probably other ways that we could safeguard against the concerns that were raised by other Representatives. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2460, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ACQUISITION OF HOSPITALS," passed Final Reading by a vote of 43 ayes to 7 noes, with Representatives Aiona, Fox, Halford, Kawanakoa, Marumoto, Meyer and Whalen voting no, and Representative Arakaki being excused.

Conf. Com. Rep. No. 37 and S.B. No. 3088, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3088, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO JOB REFERENCE LIABILITY," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Takamine voting no, and Representative Arakaki being excused.

Conf. Com. Rep. No. 38 and S.B. No. 2987, SD 2, HD 3, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2987, SD 2, HD 3, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, I stand in strong support of CCR 38, SB 2987, SD 2, HD 3, CD 1. Let me thank the Co-Chairs of the Conference Committee, Judiciary Chair Tom, Health Chair Santiago and Finance Vice Chair Kawakami. I also wish to acknowledge the yeoman efforts of my counterpart in the Senate, Human Resources Chair, Suzanne Chun Oakland. Senate Bill 2987 evolved out of tragedies that left one child dead and another in a coma, barely hanging on to life.

"The Child Protective Services Roundtable, convened in September, brought together legislators, social workers, foster parents, guardian ad litem, the Family Court, parents and child advocates. They represented the community's response to these tragedies and an urgent desire to provide an immediate and appropriate response to prevent further tragedies. With your permission, Mr. Speaker, I request to have their names inserted into the Journal along with the rest of my comments," and the Chair "so ordered."

Representative Arakaki continued, stating:

"Credit also has to be given to Dr. Susan Chandler and the Department of Human Services. While Dr. Chandler has been criticized for being defensive and evasive in the media, it must be noted that child welfare policies and procedures were immediately reviewed in response to probing questions from Roundtable members. While many changes will be made internally, we felt it was also important to send a very strong message to the Department about the need to assure the people of Hawaii that there will not be another case such as Reubyne Buentipo's.

"The bill states very clearly that a child's safety is paramount over family reunification, that important documents such as the multi-disciplinary team reports, reports from foster parents, police, physicians and guardian ad litem shall be shared with the Family Court judges, and that CPS shall make every reasonable effort to be open, accessible and communicative to the persons affected by a child protective proceeding.

"Mr. Speaker, let me go on record to dedicate Senate Bill 2987, to little Reubyne Buentipo, who lies in a coma in a nearby nursing home. While Reubyne has recovered from many of the physical injuries and has gained weight and actually looks like any other five year old, at this point all we can do is pray that God will provide a miracle and heal his damaged brain. We pray that he be given the chance to play and laugh like any other five-year old. Because of his age, there is still hope for his brain to heal and to recover from his comatose state.

"While this bill will save lives, it is too little, too late for children like Reubyne. It is indeed a sad commentary

of our society when you consider that we treat our pets and provide them better protection, as we did in another bill, yet there are no similar rights provided for children. It's ironic that we can require people to be licensed to drive, yet no license or certification is required to be a parent, given the awesome responsibility for a life. It's a shame that we can arrest and incarcerate substance abusers yet do nothing about those who expose their unborn child, in utero, to drugs and alcohol.

"These points only illustrate the lack of value we place on children. We treat our children like chattel, free to give away and to treat as we desire. The fact remains, however, that government cannot assure the safety of all children. This bill primarily aims at preventing re-abuse. The most strategic action we must take is in prevention and early intervention of child abuse and neglect. As many as 40,000 to 50,000 Hawaii children may be abused or neglected each year, but only about 10 per cent or 4,000 reports are made to State Child Welfare Services. Sadly, many of the children who are abused are under the age of five, the vulnerable age when they can be kept out of sight and are unable to express what has happened to them.

"A simple act of reporting or asking questions could make a difference between life and death, but how many of us hesitate from taking action simply because we are afraid of being told that it is none of our business? If we look at the millions of taxpayer dollars we will end up spending to care for a child like Reubyne in a nursing home, it is clearly our business. If we look at every child as a precious investment in Hawaii's future, there is no doubt it is our business. If we want to place the highest value in our families and their ability to survive difficult times, it must be everybody's business.

"Like I have done in the past, I will close with a quote from Gabriella Mistral, a Nobel Prize winning poet from Chile. But this time, while I do, I want all of us to think about and picture Reubyne Buentipo and Peter Kema, Jr. and the many other nameless children who have suffered and will continue to suffer from abuse and neglect. And while we continue the debate on the economy and decide on the best road to prosperity, let us not forget for whose sake we make these decisions.

"I paraphrase Gabriella Mistral: We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the fountain of life. Many of the things we need can wait, the child cannot. Right now is the time his and her bones are being formed, their blood is being made, and their senses are being developed. To these children we cannot answer 'tomorrow' because their name is 'today'."

The following are the names of the members of the Child Protective Services Roundtable, as requested for insertion by Representative Arakaki:

"Mr. and Mrs. James Akiona; Ms. Eve Anderson; Mr. Warren Aoki; Mr. James Atkinson; Ms. Ruth Baldino; Ms. Laurie Baron; Ms. Sue Bollig; Mr. Chuck Braden; Ms. Sally Bujold; Ms. Sarah Casken; Dr. Susan Chandler; Ms. Melissa Chun; Sister Ernest Chung; Mr. Chris Chung; Ms. Gwen Costello; Ms. Linda Craft; Ms. Rosanna Daniels; Mr. Lee Dean; Dr. Chris Derauf; Ms. Alyce Dodge; Dr. Steven Choy; Dr. Steven Denzer; Dr. Arlene Myers; Dr. Robyn Seto; Ms. Renita Edwards; Pat Ewait; Ms. Daria Fand; Ms. Loretta Fuddy; Ms. Gibby Fukutomi; Mr. Larry Gellon; Mr. Mike Gordon; Mr. Jay Goss; Ms. Ernestine Harris; Ms. Isabel Haskaylo; Ms. Becky Hendricks; Mr. Dwayne Hendrickson; Ms. Dana Ho'okala; Ms. Cheryl Inouye; Dr. Louise Iwaishi; Mr. John Kagehiro; Ms. Momi Kamau; Capt. Karen Kaniho; Ms. Laurel Kasaoka; Ms. Verna Keyes; Ms. Bernie

Kubo; Mr. Clayton Kubota; Mr. Keith Kuboyama; Mr. Steven Lane; Ms. Debbie Lee; Mr. Harvey Leighnor; Ms. Nadiene Leong; Ms. Nancy Liedke; Ms. Judy Lind; Mr. Kenneth Ling; Ms. MaryAnne Magnier; Ms. Margeret K. Masunaga; Ms. Denise Mazepa; Ms. Angela Meixell; Mr. Doug Mersberg; Ms. Ping Minn; Ms. Annabel Murray; Ms. Lisa Nakao; Mr. Edward Nishimura; Mr. Jon Olsen; Ms. Sandra Oshiro; Ms. Sharon Otagaki; Ms. Johnnie Papa; Ms. Stanlyn Placencia; Ms. Ruthann Quitquit; Ms. Kaiulani Ramos; Ms. Jeanne Reinhart; Rep. Cynthia Thielen; Ms. Mollie Robinson; Ms. Linda Rosen; Mr. Robert Sanbu; Mr. Robert Sanchez; Mr. William Santos; Ms. Linda Santos; Dr. Victoria Schneider; Ms. Debbie Shimizu; Ms. Kamaile Shoaf; Ms. Anna Silva; Ms. Robyn Smith; Ms. Judy Sobin; Ms. Joan Stebbes; Ms. Lori Sue; Mr. Ryan Suenaga; Mr. Ed Suka; Mr. William Sullivan; Ms. Yumi Suzuki; Ms. Jalene Ann Taylor; Ms. Laura Thielen; Dr. Cynthia Tinsley; Ms. Libby Tomar; Ms. Pamela Tower; Ms. Christine Trecker; Ms. Esefa Ulu; Ms. Fran Voege; Ms. Lynnemable Walamau; Mr. Mitch Werth; Ms. Ronaale Whittington; Ms. Louise Wolcott; Ms. Janice Wolf; Ms. Gladys Wong; Ms. Barbara Wright; Mr. Michael Wurtz; Ms. Deanna Yates; Mr. Brian Yee; Ms. Jan Young; and Mr. Jeff Zuckerman."

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

"I feel that this bill is one of the most important bills passed by our House this session. Still, I feel we may not be doing enough.

"Writing in yesterday's Advertiser, Mr. Tom Farrell stated: 'It is sad to think that we actually need to amend Hawaii's Child Protective Act to ensure that everyone understands that child protection is the paramount goal.'

"Further, he stated, 'Ultimately, we need to change minds, not laws. Unless those who work in the child protective system abandon the talisman that services mean safety; unless we approach every reunification case with a healthy skepticism, and unless we take no more risks with the lives of other people's children than we would with our own, then CPS will continue to fail far too often.'

"Mr. Speaker, I would like to request that the Advertiser article in its entirety be placed in the record. Thank you," and the Chair "so ordered."

The following is the Advertiser article of May 4, 1998, written by Mr. Thomas D. Farrell, as requested for insertion by Representative Lee:

"Imagine you're standing on the deck of the Titanic just after the last lifeboat puts off. Out of nowhere, a guardian angel appears and whisks you off to safety.

"As you recover from the shock and begin to contemplate life without drowning or freezing to death, the same angel reappears and whisks you right back to the sinking ship, explaining: 'Don't worry, the captain has now completed counseling on his iceberg problem.'

"That's what it's like to be a kid rescued by Child Protective Services: It's only temporary. More likely than not, that child will be returned to the 'abuser.'

"While CPS considers such outcomes a success, it doesn't appear to have been much of a success for Peter Kema, Jr. Nor was it a success for Cedra Edwards, who was recently beaten to death after being returned to her abusive mother.

"Reubyne Buentipo is no success story, either; he remains alive only due to the extraordinary abilities of modern medicine.

"CPS failures are an old story. In the 1980s, Ronnica Ann Arcala was returned home and murdered at the hands of her mother and her mother's boyfriend. That shameful episode led the Prosecutor's Office to convene a grand jury to investigate allegations of criminal negligence on the part of CPS.

"On the face of it, the reason for these bizarre results is that Hawaii law requires CPS to make reasonable efforts to reunify an abused child with the abusive parent.

"Reasonable legislators, rightly shocked at this state of affairs, have introduced legislation to amend Hawaii's child abuse laws to make clear that the child's safety is paramount, not reunification. One would think that a bill like this would be totally unnecessary. Isn't this just common sense?

"Human Services Director Susan Chandler recently assured the public that the child's safety is always first and foremost. Chandler is kidding herself. Reunification has taken on a life of its own. It is the driving force in all CPS decisions, and it is an unacceptable excuse for taking risks -- big risks -- with children's lives.

"Reunification is virtually an article of faith among those who work in the CPS system. Almost all of the judges, social workers, mental health professionals and lawyers who operate in this system subscribe to the formula.

"To understand how this works, we can look to Chandlers's recent remarks on the Edwards and Buentipo cases: 'We did everything we could,' she told us. No doubt, she sincerely believes that, but let's decide what this really means.

"When a child is removed from a parent, the usual result is a 'service plan.' In other words, CPS attempts to "diagnose" the problems that contributed to the unsafe home.

"Typically, these include things like substance abuse, sexual deviancy, lack of parenting skills or inability to control anger.

"CPS then 'prescribes' the remedy. This typically will include things like substance abuse treatment, psychological or psychiatric counseling, parenting classes, support group programs, therapy for the child, domestic violence classes, and so forth.

"If the parent successfully completes the service plan, the reward is the return of the child.

"To be fair, there are many success stories from this scenario. There are a few well known and spectacular failures. There are many other hidden failures -- hidden due to the secrecy of the CPS system, but also due to the fact that it is the nature of child abuse that a great deal of it goes undetected.

"Children who have been abused, returned to parents and then re-abused are not likely to turn them in again. Also, there are some parents whose primary lesson from involvement with CPS is how not to get caught twice.

"Completion of the service plan means it is time to risk reunification. That is the formula and that is the reality of the system today. That is what Chandler means when she tells you that CPS has done its job.

"Has it? How then does one explain cases like Kema, Edwards, Buentipo and Arcala? Did CPS really do its job there?"

"When a child dies at the hands of an abusive parent after CPS involvement, CPS has failed."

"The mission of CPS is to protect children, not to provide service plans. People can go to anger-management classes and still assault others. People can go to psychotherapy and still do crazy things. Lots of people go to substance abuse 'treatment' (a misnomer if ever there was one) and then go back to drugs."

"The completion of plans and programs, while encouraging, cannot alone guarantee a child's safety."

"It is sad to think that we actually need to amend Hawaii's Child Protective Act to ensure that everyone understands that child protection is the paramount goal. Will it make a difference, or is the reunification mind-set too entrenched?"

"Ultimately, we need to change minds, not laws. Unless those who work in the child protective system abandon the talisman that services equal safety; unless we approach every reunification case with a healthy skepticism, and unless we take no more risks with the lives of other people's children than we would with the lives of our own, then CPS will continue to fail far too often."

Representative Kawanakoa then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2987."

"If children are the future, as we've so often heard, then this bill will help assure a better future."

"Child abuse is the most heinous crime, because the perpetrator takes advantage of the weakest members of our society, members who often do not have a voice."

"With the establishment of the Child Protective Review Panel, the seriously abused children will have a voice, an advocate to say no more and never again."

"The Director will no longer have to learn about these cases on the front page of the newspaper. This panel will assure that the ones administering the program have updated findings and recommendations."

"This bill establishes that the safety and health of any child referred to Child Protective Services is of prime importance."

"We hope that this bill will finally put the protective back in Child Protective Services."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2987, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTION," passed Final Reading by a vote of 50 ayes, with Representative Arakaki being excused.

The Chair directed the Clerk to note that S.B. Nos. 2887, 3228, 2580, 2297, 2460, 3088 and 2987 had passed Final Reading at 4:47 o'clock p.m.

Conf. Com. Rep. No. 39 and S.B. No. 632, SD 2, HD 3, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 632, SD 2, HD 3, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Meyer rose in strong support of the bill, stating:

"This is a bill that would enhance traffic enforcement and safety throughout the State. It would establish a three-year pilot program with photo speed imaging detectors and photo red light imaging systems."

"We had a House bill that was moving and it got bogged down before the crossover, and so I would like to publicly thank the Chair of Judiciary and the Chair of the Finance Committee for seeing the value in this bill. This was a Senate Bill that had crossed over to the House in the 1997 session, and these two Chairs saw the value of this and moved it forward so that we could vote on it today."

"This is an important bill for the rural district that I represent. It would give the police another tool. There are not adequate police to cover the many miles in my district as well as the Representative from Haleiwa, so we have high hopes that one of these pilot programs will be established in that area. So when you're going around the island, don't speed."

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 632, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 40 and S.B. No. 2866, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2866, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONNEL FOR MENTAL HEALTH," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 41 and S.B. No. 2346, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2346, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 42 and S.B. No. 1273, SD 1, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 1273, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, if there is any benefit of having served for the first time in my last time here in the House on the Human Services Committee, it is what I learned about sexual assault. And this bill is about sexual assault. If

we want to look at the most traumatic injury that we can do to any person, particularly young or older, it is to sexually assault them. If you really want to scramble somebody's brain, that's what you do to them. And this bill interestingly says that it is time that those who sexually assault those victims have some accountability.

"This bill will, if one is sexually assaulted, allow for the testing of the person who assaults them to be tested for HIV. The difficulty is that Hawaii is one of two states that say that if you are going to test for the HIV, you first have to have the person convicted. Mr. Speaker, the average time for conviction of sexual assault cases is six to eight months. Scientifically speaking, if we want to have HIV halted, it has to be tested for and restricted within the first 24 hours -- 36 hours at the very latest. According to an article published in the Journal of the American Medical Association, entitled: 'HIV Testing, Counseling and Prophylaxis After Sexual Assault', testing must take place at the time the defendant is charged, not after the defendant is convicted.

"Mr. Speaker, what we've got here is a very traumatic bill in the sense that it's a formula for post-traumatic stress syndrome. Tests and surveys have shown that 42 percent of respondents who have been sexually abused fear the disease as one of the greatest aftereffects of the assault. So this bill is a good bill. It takes sexual assault and puts it in its place, but it does it politically incorrectly after the fact where there's no use. So it's got a great intent but its impression is not good. You really deliver what we need to do, and that's to take sexual assault and put it in its proper place.

"And again, Mr. Speaker, if there's any way we want to scramble a person's brain is to sexually assault them and then, like this bill is doing, make them 'twist in the wind' for six to eight months before they can find out if the person that assaulted them has HIV. It's a bit unfair. It's a bit cruel and unusual punishment.

"Thank you."

Representative Yamane rose in support of the bill, stating:

"If the prior Representative is trying to correct the record, he should read the House position going into conference. It was exactly what he read about. The position was that, at the time of the charge the other party in our Conference Committee chose not to move. So do we want no bill or do we want something that would at least put us in the right direction? And I think this bill does that.

"Thank you, Mr. Speaker."

Representative Pendleton rose in strong support of the bill, stating:

"Mr. Speaker, it's a good thing that our State is moving forward to make sure that one injustice added on to another. . . in a situation where a person has been sexually assaulted, they are a victim already of a very serious and heinous crime, and it is good that we are taking steps so that they can derive at least some sense of control over their lives by being able to request that this perpetrator be tested. I would have preferred the House's original version, and I think all of us would have, but we all know that in Conference Committee these things happen in seeking to get a bill that's acceptable to both chambers.

"But I do hope that this is a good step in the right direction, and that maybe in future sessions we may be able to revisit this, and maybe move it in the direction of

allowing a victim to be able to get this information at the time that the perpetrator is charged. I don't know if other states are doing that, but we do want to be able to give that information to the victim as soon as possible.

"So again, I am glad that we are moving this bill forward. I would have preferred the original House position. I thought we were wiser than the Senate on this particular measure, but such is the consequences having a bicameral Legislature.

"Thank you, Mr. Speaker."

Representative Ahu Isa rose in strong support of the bill, stating:

"Mr. Speaker, I, too, really wanted the House position to prevail. I sat on the Conference Committee and I know our Chair Tom really fought hard to get that position, because I think he would agree with me that most of the sexual assault victims are women. And if you are raped, you would want to know -- to have peace of mind -- like how Representative Ward said. You know, just for your own peace of mind emotionally and mentally, if you are under this terrible stress, at the time that act happens, the person that is charged with the crime should be tested at that point and not wait six to eight months later.

"We did not want to see the bill die or held in Committee, so this is what came out of it. And I thank Chair Tom for all of his hard work.

"Thank you, Mr. Speaker."

Representative Kawanakoa then rose in support of the measure with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"Mr. Speaker, I rise to speak in favor of this measure, with grave reservations. While this bill provides for HIV testing for victims of sexual assault, it does not go far enough.

"Under this measure, a victim of sexual assault will be apprised of their right to counseling and to request that the person convicted of the sexual assault be tested for HIV. This is good.

"What is not good is that this bill requires the conviction of the perpetrator of the assault before testing can be mandated.

"Valuable hours, days, weeks will be lost and all hope for treatment abandoned, if we don't find a way to require testing of an accused assailant immediately. Presently, there are courses of treatment available that dramatically reduce the chances of contracting HIV if the treatment is commenced within hours of exposure. Doctors, when stuck while working on a likely HIV patient, don't wait. They start the HIV cocktail immediately.

"If we were to pass a bill requiring testing of accused assailants if there were probable cause to believe they might have exposed a victim to HIV, many believe that while it would draw constitutional challenges, the measure would stand. We have a little problem with the notion of drawing blood from an unconvicted drunk driver.

"This bill could be vastly improved, either by requiring any assailant who meets the probable cause standard to

be tested, or in the absence of that, providing even for voluntary testing upon request of the victim."

Representative Lee then rose in strong support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Lee's remarks are as follows:

"Mr. Speaker, sexual assault is a devastating event with lifelong implications, therefore it is heartening to see the Legislature take action on the issue of HIV testing. Although I personally would have preferred the House version of the bill, the present bill is a good beginning.

"However, we should not lose sight of the real issue. That is, the victim must have access to immediate treatment, counseling and follow-up over a period of months. Testing of the perpetrator is often complicated by the possibility of both false positives and negatives, and should not be considered as a factor in whether or not to provide services to a victim.

"What we really need to be concerned about is that we continue to provide help and support to 24 hour services such as the Sex Abuse Treatment Center and other sex abuse treatment providers. We should concentrate our resources and our attention on what can be done for the victims of sexual assault, and to make sure that there is no question that they have adequate follow-up care."

Representative Fox rose in support of the bill with reservations, stating:

"I think that the main point is that there is a tremendous difference between getting the person when they are charged and when they are convicted, and the House position should have prevailed.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1273, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIMS OF SEXUAL ASSAULT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 43 and S.B. No. 1309, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 1309, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 44 and S.B. No. 2249, SD 1, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2249, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative McDermott rose to speak in favor of the bill, stating:

"It is a fee, and some of my colleagues were teasing me in the elevator coming down here. My record is not perfect anymore because I gave in to 'C' for criminal convicts, DNA testing for sex abusers, something like that.

"Remember, Mr. Speaker, convicts don't vote, so I will support those fees.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2249, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 45 and S.B. No. 2399, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2399, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 46 and S.B. No. 720, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 720, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEES AND COSTS FOR THE ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE," passed Final Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

The Chair directed the Clerk to note that S.B. Nos. 632, 2866, 2346, 1273, 1309, 2249, 2399 and 720 had passed Final Reading at 4:57 o'clock p.m.

Conf. Com. Rep. No. 47 and S.B. No. 721, SD 1, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 721, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"I just take issue with the language of the Committee Report which says: 'Filing fees are the "price of admission" to the judicial system and should not be viewed primarily as a revenue-generating device.' It sort of reminds me of the poll tax of the old South which was designed not to raise revenue, but to restrict certain poor people from voting."

"And I am wondering whether the Judiciary is saying by this measure that 'no pay, no play' when they have a price of admission.

"Thank you."

Representative Meyer rose to speak against the bill, stating:

"I have the testimony from the Hawaii State Bar Association and they did testify against these increases in fees. Many of them go up as much as 500 percent. Some of them that go up that far are on family law, family matters. Adoption is increased by 556 percent; guardianship, the same. As I said, the testimony from the Bar Association points out that the long-term impact of drastic increases in filing fees must be considered and weighed against the short-term need to generate additional funds during our current difficult economic times.

"A paper from the Judiciary estimates that these increased fees, as they are increased in this bill, would

create close to three million dollars in new revenue. But as the Bar Association says: 'The broad public policy impact in determining appropriate levels of filing fees must take into account and reflect the fact that filing fees serve as "price of admission."' That's where that came from -- that statement that the Representative from Waialae made comment about. But the 'price of admission' for access to justice cannot be established so high as to create a system where only the rich can afford access to justice. To do so would render our promise of equal justice under the law null and void.

"While it is true that the very poor segment of our population may qualify for assistance under various provisions of the law, filing fees must be set at a level that the great majority of our working middle class can retain reasonable access to our judicial process. In Committee hearings, I questioned that the fee should have some relationship to the work or the time that it takes to process it. But that really played no part into it, that well, 'some of these we have had the same things since 1971. We haven't changed this until 1990, so we think we can raise more money on this.'

"I don't believe that that should be the criteria. The people in this State, through our taxes, support the Judiciary system. The fee should have some relationship to the work it takes to process them, and that is why I am voting 'no'.

"Thank you, Mr. Speaker."

Representative Moses rose in opposition to the bill, stating:

"As my previous colleagues have mentioned, the Committee report does say that filing fees are the 'price of admission' to the judicial system and should not be viewed primarily -- and let me say that again -- primarily as a revenue-generating device. However, if they are not viewed primarily as one, they still are one.

"The Committee report goes on to say: 'However, in a time of economic severity, it is appropriate that users of the system share in the present-day costs of operating the system.' So it is a 'price of admission', and I think that is wrong. So I am voting 'no', Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 721, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Final Reading by a vote of 37 ayes to 13 noes, with Representatives Aiona, Fox, Halford, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Stegmaier, Thielen, Ward and Whalen voting no, and Representative P. Oshiro being excused.

Conf. Com. Rep. No. 48 and S.B. No. 2326, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2326, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER'S MUTUAL INSURANCE COMPANY," passed Final Reading by a vote of 47 ayes to 3 noes, with Representatives Halford, Marumoto and Yamane voting no, and Representative P. Oshiro being excused.

Conf. Com. Rep. No. 49 and S.B. No. 2624, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the

Committee was adopted and S.B. No. 2624, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Final Reading by a vote of 50 ayes, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 50 and S.B. No. 2803, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2803, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Two years ago, this House struggled with how to help small business and how to bring them some relief. After consultation with leaders from the small business community who agreed that they would be willing to serve, this House established the Small Business Task Force on Regulatory Relief. Now, Mr. Speaker, with all due respect to the Economic Recovery Task Force, this group of small business owners, without the media attention given the ERTF, has labored over an eighteen month period in relative obscurity, and have given us this well thought-out, far-reaching, trend setting piece of legislation.

"Mr. Speaker, from everything that I have heard and know from personal experience as a small business owner, Hawaii's regulatory gridlock plays a bigger part in 'choking' Hawaii's small business growth than Hawaii's tax policy. This is where you really look to see if government is friendly to business.

"This bill is significant. It represents meaningful efforts to improve Hawaii's small business climate. This bill puts small business on the front line to review existing and new regulations. It provides for a small business impact statement. The advisory committees called for in this bill impact every department in State and county government whose rules impact small business.

"The Regulatory Review Board called for in the bill paves the way for an ongoing review of all rules and regulations that impact small business, and they will all have to be justified for them to continue. This is zero-based budgeting for business rules and regulations.

"This bill has been hailed nationally as a road map for other states to follow. Isn't that a switch?

"Mr. Speaker, when the House had this bipartisan retreat last summer, one of the top issues was massive deregulation of business. This bill puts the State on the road to deregulation. That was for further on.

"Mr. Speaker, this bill is the result of actions taken by this House when we formed the Small Business Task Force on Regulatory Relief two years ago. Mr. Speaker, the members of the Task Force have been 'opihis.' They have not let go. They have followed this bill all the way through. And I would just like to give them the credit that's due: Mr. Gary Baldwin from Lihue, member; Mr. Albert Cowell from Honolulu who was here every day and every night until we reached agreement with the Senate; Mr. Kelly King from Kauai; Ms. Diane Kurtz from Aiea; Mr. Tim Lyons from Honolulu; Mr. Tim Moore from Lahaina who took some 'shots' for his participation in this exercise; Ms. Cherylle Morrow from Kailua, Oahu; Mr. Norman Nagamine from Honolulu; Mr. Andy Poepoe, a name that we all know, from Honolulu; Mr. Jim Proctor from Honolulu; Ms. Betty Tatum from Honolulu; Mr. Greg Thielen from Kailua, Oahu; Ms. Denise Walker from Mountain View on the Big Island;

Mr. Willy Wong from Kailua, Kona; and Ms. Lynn Woods from Maui. Mr. Speaker, I also want to thank the efforts of Ms. Karen McKinnie from DBEDT; and Mr. Tom Smythe also from DBEDT, who stuck with us to the very end.

"I urge all members to vote for this bill.

"Thank you."

Representative Ward rose in support of bill, stating:

"Mr. Speaker, I would ask that the previous speaker's remarks, who is from the Big Island of the opposite party but in the same spirit for small business, be entered into the Journal as my own, and the Chair "so ordered." (By reference only)

Representative Ward continued, saying:

"Mr. Speaker, I just wanted to put one historical footnote in context in that I had the privilege of being in the White House Conference on Small Business 1995, where the whole nation of small businesses said that this is the priority, as the previous speaker spoke of, for not only the nation but for Hawaii.

"Secondly, I had the privilege of working with the Working Group on the ERTF, and this report was actually submitted on the table for possible adoption. Unfortunately, the ERTF and the Governor rejected it. It is unfortunate because it has lost some of its parts, and I think possibly it would have had a bit more momentum. And I also know that it is going to do a number of things but it would have done even more, Mr. Speaker, if the small business defender, the one who can direct the traffic for the small businesses the way that the Consumer Protection Advocate does for our customers. But having said that, I think this is a 'new day' for small business. It is something that has put us on alert now in the bureaucracies that: let our people go, let them do their entrepreneurial initiatives. And this will be a guideline which I think, from this day forward, will be remembered.

"Thank you."

Representative Thielen rose in strong support of the bill, saying:

"Mr. Speaker, I would like to disclose a potential conflict. My son, Greg Thielen, is part of the Governor's Small Business Regulatory Relief Task Force," and the Chair ruled "no conflict."

"I would like to request that the very positive and strong comments of Representative Herkes be entered into the Journal as my own, and I thank him for his leadership on this and his strong support," and the Chair "so ordered." (By reference only)

Representative Herkes rose and stated:

"Just for the information of one of the previous speakers, the Small Business Defender is in the bill. We had a difficult time with the Senate trying to figure out where to place it. Some of the suggestions that were made by the House is that we give it to Frank Arakaki and Ben Villalor for them to 'defend' small business. We also suggested perhaps for a dollar a year that the Senate Minority might want to take on that job. I think that the Task Force recommended the Ombudsman and there were some problems there, having the Ombudsman take a strong position for small business. So in the end result, we told the Senate that we had to have the position in the bill. It is attached to the Legislature.

"Thank you."

Representative Tarnas rose in support of the bill, stating:

"I want to thank the Chair of the Economic Development and Business Concerns Committee for his leadership in this, and I want to reiterate, Mr. Speaker, something that I have said throughout this session. When I sent out my survey to the constituents in the Sixth District, asking them: 'What are the major hurdles that are facing small business within our community?' -- the top hurdle that they identified through the survey was regulations.

"So I feel, Mr. Speaker, by enacting this bill that we have before us right now, we are taking a major step to addressing the primary hurdle that is facing small business in the State. We are taking a major step to reduce those hurdles and establish a much more cooperative relationship between state government and small business. And that's really what we need to do in order to create a better business climate within the State and improve our economy. So I encourage all the members here to support this measure.

"Thank you, Mr. Speaker."

Representative Stegmaier rose and stated:

"As Co-Chair of the Legislative Small Business Caucus, I stand in strong support of this measure."

Representative Kawanakoa then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"Mr. Speaker, I rise in favor of Senate Bill 2803.

"We've all seen the 100-meter dash at the Olympics, with the world's fastest runners sprinting to the finish. Our small businesses are like those runners, lean and muscular, overcoming great pain and hardship to win.

"Unfortunately, we in government have often been the ones putting hurdles up in a race in which they don't belong.

"This bill goes far to get rid of government hurdles that have been slowing down, and tripping up Hawaii small businesses.

"The bill even goes so far as to establish a Small Business Defender to help small business fight against the harshest of regulations. This is good, although I am still concerned about who appoints the Small Business Defender.

Let's allow our State's fastest businesses the freedom to grow as fast as they can. I urge your support for this bill."

Representative Ahu Isa rose in strong support of the bill, stating:

"I just want to add accolades to my Chair, Representative Herkes, for his hard work in getting this bill through. I was on the Conference Committee also, and at times we weren't quite sure what was going to happen to it. It kept being delayed and deferred and postponed. And in addition to the people that he thanked, I also want to thank him -- 'thank you'."

Representative Ward rose and stated:

"I rise to stand corrected on the Small Business Defender, but I would like to make a plea also. Please don't put the Small Business Defender in the same packet with the Legislative Analyst which, as you know, ten years ago we created it. We haven't funded it. So I wish the best for the Small Business Defender under the legislative wing, but let there be money that it might live.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2803, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII SMALL BUSINESS REGULATORY FLEXIBILITY ACT," passed Final Reading by a vote of 50 ayes, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 121 and S.B. No. 2983, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2983, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OFFICE OF INFORMATION PRACTICES," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Goodenow voting no, and Representative P. Oshiro being excused.

Conf. Com. Rep. No. 122 and S.B. No. 2211, SD 2, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2211, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 50 ayes, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 123 and S.B. No. 2966, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 123 and S.B. No. 2966, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION," were recommitted to the Committee on Conference, with Representatives Hiraki and Stegmaier being excused.

Conf. Com. Rep. No. 124 and S.B. No. 2852, SD 1, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2852, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Yoshinaga rose and stated:

"I speak in favor of the bill and I would like to request the Clerk to insert my comments into the Journal," and the Chair "so ordered."

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise to speak in support of SB 2852 SD 1, HD 2, CD 1.

"Last year, we passed the Voluntary Response Law to encourage clean-up of contaminated property and to stimulate the redevelopment of valuable property that is being underutilized.

"That landmark measure addresses one of the major obstacles to the redevelopment of property that may be contaminated, namely, that becoming a tenant of a contaminated property could render a new occupant completely liable for existing contamination. The law provides a win-win situation for owners, prospective purchasers, and tenants to deal with this situation.

"The Voluntary Response Law provides an avenue for enhancing the value of a contaminated piece of property by making it more attractive to potential purchasers. It encourages property owners to address environmental problems on their property since they know that doing so will help protect purchasers from future liability.

"SB 2852 improves upon the good work that we did last year. First, it eliminates that need for property owners to identify a purchaser or tenant in advance of cleaning up the property. It will encourage owners to act sooner rather than later.

"Second, it extends coverage to property with underground storage tanks. This is a major category of contaminated property whose owners will be encouraged to enhance the marketability of their property.

"Third, it broadens the playing field by removing a provision that rendered property ineligible if an enforcement action had been initiated.

"Finally, it gives the Director of Health greater discretion in approving and denying applications that are in the best interest of the public, environmentally and economically.

"We should be proud of the Voluntary Response Law and we should be proud of our willingness to build upon a good thing and make it even better."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2852, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE VOLUNTARY RESPONSE PROGRAM," passed Final Reading by a vote of 50 ayes, with Representative P. Oshiro being excused.

The Chair directed the Clerk to note that S.B. Nos. 721, 2326, 2624, 2803, 2983, 2211 and 2852 had passed Final Reading at 5:14 o'clock p.m.

At 5:15 o'clock p.m., Representative Yoshinaga asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:18 o'clock p.m.

Conf. Com. Rep. No. 125 and S.B. No. 3076, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3076, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 126 and S.B. No. 2037, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2037, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO

HEALTH INSURANCE," passed Final Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that S.B. Nos. 3076 and 2037 had passed Final Reading at 5:19 o'clock p.m.

Conf. Com. Rep. No. 127 and S.B. No. 2204, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 127 and S.B. No. 2204, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," were recommitted to the Committee on Conference, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 128 and S.B. No. 379, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 128 and S.B. No. 379, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," were recommitted to the Committee on Conference, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 129 and S.B. No. 760, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 129 and S.B. No. 760, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOLS-WITHIN-SCHOOLS," were recommitted to the Committee on Conference, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 130 and S.B. No. 2350, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 130 and S.B. No. 2350, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," were recommitted to the Committee on Conference, with Representative P. Oshiro being excused.

Conf. Com. Rep. No. 131 and S.B. No. 1089, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

At 5:19 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:20 o'clock p.m.

CONFERENCE COMMITTEE REPORTS

Representatives Cachola and Chang, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.C.R. No. 191, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 132) recommending that S.C.R. No. 191, SD 2, HD 1, as amended in CD 1, be adopted.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.C.R. No. 191, SD 2, HD 1, CD 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE STATE OF HAWAII AND CITY AND COUNTY OF HONOLULU TO WORK COOPERATIVELY TOGETHER TO ESTABLISH A JOINT WAIKIKI TASK FORCE TO EXPLORE THE

REVITALIZATION AND RENOVATION OF WAIKIKI AND SURROUNDING AREAS INCLUDING THE HAWAII CONVENTION CENTER," was adopted, with Representative Yamane being excused.

Representatives Yonamine and Chang, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.C.R. No. 88, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 133) recommending that H.C.R. No. 88, HD 1, SD 1, as amended in CD 1, be adopted.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.C.R. No. 88, HD 1, SD 1, CD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN ACTUARIAL STUDY AND A PROGRAMMATIC AUDIT OF THE PUBLIC EMPLOYEES HEALTH FUND OPERATIONS, AND REQUESTING A MANAGEMENT AUDIT OF THE SCHOOL-TO-WORK OPPORTUNITIES SYSTEM," was adopted, with Representative Yamane being excused.

Representatives Santiago and Abinsay, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.C.R. No. 28, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 134) recommending that S.C.R. No. 28, SD 1, HD 1, as amended in CD 1, be adopted.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.C.R. No. 28, SD 1, HD 1, CD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT OF STUDENT-CENTERED MENTAL HEALTH INTERVENTION SERVICES," was adopted, with Representative Yamane being excused.

Representatives Arakaki and Abinsay, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.C.R. No. 146, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 135) recommending that S.C.R. No. 146, SD 2, HD 1, as amended in CD 1, be adopted.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.C.R. No. 146, SD 2, HD 1, CD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A PROGRAM AUDIT FOCUSING ON DECISION-MAKING PROCESSES ACROSS THE VARIOUS AGENCIES INVOLVED IN THE CHILD PROTECTIVE SERVICES SYSTEM," was adopted, with Representative Yamane being excused.

At 5:25 o'clock p.m., Representative Aiona asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:28 o'clock p.m.

FINAL READING

By unanimous consent, the following bills were taken from the Clerk's desk and the following actions taken:

H.B. No. 1577, HD 2, SD 2:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1577, HD 2, and H.B. No. 1577, HD 2, SD 2,

entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION WATER PROJECTS," passed Final Reading by a vote of 51 ayes.

H.B. No. 1647, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1647, HD 1, and H.B. No. 1647, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING OF CERTAIN SELLERS," passed Final Reading by a vote of 51 ayes.

H.B. No. 1649, HD 2, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1649, HD 2, and H.B. No. 1649, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PERJURY," passed Final Reading by a vote of 51 ayes.

H.B. No. 1699, HD 2, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1699, HD 2, and H.B. No. 1699, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL LOAN PROGRAM," passed Final Reading by a vote of 51 ayes.

H.B. No. 2426, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2426, HD 1, and H.B. No. 2426, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

H.B. No. 2614, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2614 and H.B. No. 2614, SD 1, entitled: "A BILL FOR AN ACT RELATING TO POLICE OFFICERS, FIREFIGHTERS, AND BANDSMEN PENSION SYSTEM," passed Final Reading by a vote of 51 ayes.

H.B. No. 2660, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2660 and H.B. No. 2660, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC SERVICE COMPANY TAX," passed Final Reading by a vote of 51 ayes.

H.B. No. 2670, HD 2, SD 1:

Representative Okamura moved that the House agree to the amendments proposed by the Senate to H.B. No. 2670, HD 2, and H.B. No. 2670, HD 2, SD 1, pass Final Reading, seconded by Representative Kawanakoa.

Representative Kawanakoa rose and stated:

"I'd also like to make mention of House Bill 2670, HD 2, SD 1. I will be voting 'no'. This is in regards to psychologists. Perhaps others would like to venture comments at this time. I would just like to indicate that for various members of the Caucus.

"Thank you."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2670, HD 2, and H.B. No. 2670, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOLOGISTS," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Aiona, Fox, Kawanakoa, Marumoto, Moses, Pendleton, Thielen and Ward voting no.

H.B. No. 2711, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2711, HD 1, and H.B. No. 2711, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MANAGEMENT OF FINANCING AGREEMENTS," passed Final Reading by a vote of 51 ayes.

H.B. No. 2758, HD 1, SD 2:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2758, HD 1, and H.B. No. 2758, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading by a vote of 51 ayes.

H.B. No. 2760, HD 1, SD 2:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2760, HD 1, and H.B. No. 2760, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO SALARY PERIODS," passed Final Reading by a vote of 51 ayes.

H.B. No. 2761, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2761 and H.B. No. 2761, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SALARY PAYMENTS TO NEW EMPLOYEES," passed Final Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

H.B. No. 2793, SD 1:

Representative Okamura moved that the House agree to the amendments proposed by the Senate to H.B. No. 2793 and H.B. No. 2793, SD 1, pass Final Reading, seconded by Representative Kawanakoa.

Representative Kawanakoa rose and stated:

"With regard to the motion that we will be agreeing to on House Bill 2793, SD 1, HFDC buy-back period, I believe we're reducing the buy-back period from ten years to three years. When I sat on the Housing Committee, I felt this was a bad move. We have subsidized the various. . .

The Chair interrupted: "Excuse me, Representative, are you speaking against the bill?"

Representative Kawanakoa answered:

"In opposition, and I spoke in opposition in prior years in the Committee and has never reached this level of decision. But my concerns were that we have actually given various participants in these programs a 'special', you could say, on purchasing that home. And now I do understand that the market has turned and we want to give them an opportunity to sell within a shorter period of time, or allowing HFDC the buy-back period. I just find that this is not appropriate. Many people in the private sector have also 'lost some of their shirts' in the real estate market.

"An agreement is an agreement. And a buy-back period of ten years was in place for a good reason, and to shorten that period to three years at this point, while beneficial to some, certainly seems to be unfair to our public purpose of providing affordable housing.

"Thank you, Mr. Speaker."

Representative Meyer rose and stated:

"On that same measure, again people were given. . .

The Chair interrupted and asked: "Are you speaking for or against the bill, Representative?"

Representative Meyer answered:

"I'm speaking against the bill for a lot of the same reasons that our Minority Leader gave. But also, in reading the bill, I see that where you previously could buy under this program if you had virtually no interest in any real property, now this bill has amended it where you could have a fifty percent interest in other property -- fee simple or leasehold.

"Somehow it seems like we're getting away from what the objective was in the first place, which was to create opportunities for first-time buyers to own a home, and for this preferential treatment if he/she is a first-time buyer. But now we're saying, well, you could have an interest in another property and you'll still qualify. I think we're moving in the wrong direction. For that reason, I will be voting 'no'.

"Thank you, Mr. Speaker."

Representative Arakaki rose to speak in favor of the bill, stating:

"I'd like to concede that the points that were made by the previous speakers are correct. I, for one, didn't really think that the State should be in the area as a developer of affordable homes. That should have been a market decision.

"Back about ten years ago I think the vision was to provide affordable homes, thinking that this was where the real need was. And at that time I don't think anybody envisioned the kind of market that we have today. And really the incentive was to provide homes at very affordable rates.

"However, we need to focus on who, if there is anybody really benefitting from this, and who's hurt by the restrictions that we had imposed ten years under those conditions. And we really need to look at how we can help those who may be put in a predicament right now where they are unable to sell or to really, if they wanted to, buy up. And I think, given the change in market condition, we have to be flexible too, and I think we need to be able to admit that perhaps it was a mistake. I don't think we need to punish people because of that lack of foresight. Therefore, to remedy the situation, this

measure will help those who really need the help who are in this situation.

"Thank you, Mr. Speaker."

Representative Ahu Isa rose to speak in support of the bill, stating:

"Mr. Speaker, I had a former student who lost his job at Bank of Hawaii. He was an appraiser, a young man about 26 years old. He bought one of these units and because of the job situation, he had to move to Arizona. He is stuck with this. He can't rent it out. He can't sell it. He says he doesn't have the money to buy it back. HFDC doesn't have the money to buy it back.

"Like Representative Arakaki said: we shouldn't have probably been in this business in the first place. But given the economic conditions that exist now with the real estate market, and these are young people -- a lot of them -- or families that bought with the good intentions, not of selling and getting money and having the City buy back and going out and buying something else. I don't think that was the intention of a lot of these families.

"I am very pleased to see this bill because I didn't really look at it until now. So I thank the Committee that put this bill through.

"Thank you, Mr. Speaker."

Representative Whalen rose to speak against the bill, stating:

"Mr. Speaker, I see the problem here is that what we've done and what we continue to do is cause the majority of people to subsidize a select few. And now with the downturn in the economy, they are forced to sell, and certainly these people are in difficult times. But to allow them to sell and keep any profit at all. . . the profit should go back to the people who invested, which are the taxpayers of the State of Hawaii. It should not go to the person who bought the home. As has already been noted, there are other people who bought homes at market prices during the same period of time and have had to sell at major losses, and it is the same for them, too. So why are we again trying to 'scoop up' everybody?

"When you buy a home, it's always a risk. And if you're going to invest, you've already benefitted tremendously by buying something far below the market value at the time. And now we're saying, after three years you can sell and keep any profit, et cetera, but the guy right next door to you who bought a market home has to sell and 'eat' a hundred and fifty dollar loss. I don't understand why we're doing this, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2793, and H.B. No. 2793, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," passed Final Reading by a vote of 45 ayes to 6 noes, with Representatives Halford, Kawanakoa, Meyer, Pendleton, Stegmaier and Whalen voting no.

H.B. No. 2801, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2801, HD 1, and H.B. No. 2801, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT

CORPORATION OF HAWAII," passed Final Reading by a vote of 51 ayes.

H.B. No. 2855, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2855, HD 1, and H.B. No. 2855, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSE MIDWIVES," passed Final Reading by a vote of 51 ayes.

H.B. No. 2866, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2866 and H.B. No. 2866, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT ON PUBLIC WORKS PROJECTS," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Whalen voting no.

H.B. No. 3027, HD 2, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 3027, HD 2, and H.B. No. 3027, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID OVERPAYMENT RECOVERY," passed Final Reading by a vote of 51 ayes.

H.B. No. 3247, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 3247, HD 1, and H.B. No. 3247, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SHORT TERM INVESTMENT OF COUNTY MONIES," passed Final Reading by a vote of 51 ayes.

H.B. No. 3248, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 3248, HD 1, and H.B. No. 3248, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO LAPSED WARRANTS," passed Final Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that H.B. Nos. 1577, 1647, 1649, 1699, 2426, 2614, 2660, 2670, 2711, 2758, 2760, 2761, 2793, 2801, 2855, 2866, 3027, 3247 and 3248 had passed Final Reading at 5:40 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the rules were suspended for the purpose of reconsidering action previously taken, seconded by Representative Kawanakoa and carried.

Representative Kawanakoa rose on a point of parliamentary inquiry and asked:

"What House Rules are we suspending at this time and the necessity for it?"

At 5:40 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:44 o'clock p.m.

Representative Thielen rose and stated:

"I wanted to congratulate Representative Okamura for the marathon, but I did miss a couple of numbers. I was wondering if he could read those bill numbers again and give us the page numbers on the Yellow Action Sheet.

"Thank you."

The Chair stated:

"You are out of order. You should have called the attention to the Chair and state your reason. Please proceed and provide and do a courtesy to the Representative. I would expect a little more courtesy in the future. Please proceed."

RECONSIDERATION OF ACTION TAKEN

Representative Okamura moved that the House, in disagreeing to the amendments proposed by the Senate to the following House Bills, reconsider its action taken on:

April 10, 1998: H.B. No. 1049, HD 1 (SD 1).

April 16, 1998: H.B. Nos. 2331, HD 1 (SD 1); 2537, HD 1 (SD 1); 2671, HD 2 (SD 1); 2672, HD 1 (SD 1); 2762, HD 1 (SD 1); 2888, HD 2 (SD 1); 2892, HD 1 (SD 1); 3281, HD 1 (SD 1); and 3527, HD 1 (SD 2), seconded by Representative Kawanakoa and carried.

Representative Okamura then gave notice of intent to agree to the amendments proposed by the Senate to H.B. Nos. 1049, HD 1 (SD 1); 2331, HD 1 (SD 1); 2537, HD 1 (SD 1); 2671, HD 2 (SD 1); 2672, HD 1 (SD 1); 2762, HD 1 (SD 1); 2888, HD 2 (SD 1); 2892, HD 1 (SD 1); 3281, HD 1 (SD 1); and 3527, HD 1 (SD 2).

SUSPENSION OF RULES

Representative Case moved to suspend the rules of the House to reconsider action previously taken in disagreeing to the amendments proposed by the Senate to H.B. No. 2362, HD 1, seconded by Representative Morita.

Representative Case then requested for a Roll Call on the motion to suspend the Rules and upon a show of hands, the request was granted.

At 5:50 o'clock p.m., Representative Cachola asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:00 o'clock p.m.

Representative Kawanakoa then rose on a "point of parliamentary question," stating:

"Thank you, I just was curious if we could get a little clarification on what the members of the House will be voting on. I understand that we will be voting on whether or not to suspend the rules so that we may further vote on the reconsideration of House Bill 2362 in agreeing to the Senate's position, which is a reasonable standard for trustee fees for charitable trusts. Is that accurate, Mr. Speaker?"

The Chair responded: "That's basically accurate."

Representative Kawanakoa responded: "So a 'no' vote here would be basically a 'no' vote for the reconsideration."

The Chair responded: "A 'no' vote would be a 'no' vote for the suspension of the rules. That's what it would be. We're not talking about the reconsideration at this time, Representative. We are talking about the suspension."

Representative Kawanakoa responded: "If we don't suspend the rules, Mr. Speaker, we won't be able to vote on the reconsideration, is that accurate?"

The Chair responded: "That's correct. I think it's clarified right now."

Representative Kawanakoa responded: "Just want to make sure we're clear on that. Thank you, Mr. Speaker."

Roll call having been requested, the motion to suspend the rules was put to vote by the Chair and carried on the following Ayes and Noes.

Ayes, 26: Representatives Aiona, Arakaki, Case, Fox, Halford, Hamakawa, Hiraki, Kawanakoa, Lee, Marumoto, McDermott, Meyer, Morita, Moses, Pendleton, Saiki, Santiago, Stegmaier, Suzuki, Takai, Takamine, Takumi, Tarnas, Thielen, Ward and Yonamine.

Noes, 25: Representatives Abinsay, Ahu Isa, Cachola, Chang, Garcia, Goodenow, Herkes, Ito, Jones, Kahikina, Kanoho, Kawakami, Menor, Morihara, Nakasone, Okamura, M. Oshiro, P. Oshiro, Say, Tom, Whalen, White, Yamane, Yoshinaga and Souki.

At 6:04 o'clock p.m., Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:07 o'clock p.m.

RECONSIDERATION OF ACTION TAKEN

Representative Case moved that the House reconsider its action taken on April 16, 1998, in disagreeing to the amendments proposed by the Senate to House Bill No. 2362, HD 1 (SD 1), seconded by Representative Morita.

Representative Case rose to speak in support of the motion, stating:

"Mr. Speaker, few issues have commanded as much attention over the last couple of years, and especially over the last year, as the question of compensation for charitable trustees.

"While many view this as a bill which affects the Kamehameha Schools/Bishop Estate, I want to say that this bill affects all charitable trustees. Not non-charitable trustees, not charitable corporations, but charitable trustees. That is important for a number of reasons that I want to go through very quickly.

"The first reason is that, essentially, charitable trustees under our current statutes are paid a percentage of gross revenues. As I have said a number of times on this floor already, that does not encourage incentive, that does not encourage good performance, and no check and balance is provided by that statute. That statute was enacted a

number of decades ago and is really, just basically, outmoded.

"Nationally there is a movement in this area to subject charitable trustees to reasonable compensation. Now many people are going to get up here in a second and they're going to say, well we don't have any standards to judge reasonable compensation.

"Reasonable compensation is a legal term of art understood perfectly by the probate court which is charged with administering charitable trusts. In essence, what reasonable compensation requires is for the trustees themselves to submit to the probate court an application saying what they think they're worth and justifying it on various grounds.

"The grounds provided for the most part are: comparable trustee compensation in other comparable entities, how well the trust is doing, how well the trustees are doing in managing the trust. So in other words they have to explain themselves, which they don't have to do right now.

"Now why is this important to the State? Why should the State get involved? Because we're about to hear a number of people get up and say, well the State shouldn't be involved in this area.

"It is important to the State in a number of areas. The first primary area is that charitable trusts enjoy tax exempt status in our State. The reason they enjoy tax exempt status is because they do the public's work; private entities doing the public's work, and in return for them doing that we give them a tax break. If they are not doing the public's work, they should not be getting that tax break. That's the quid pro quo. That's why we have an interest in them.

"Now we have an interest in some of these charitable trusts for a very specific reason which I, in particular, am concerned about, and that is that the beneficiaries are native Hawaiians. And I leave to other people in this chamber to discuss this aspect further, but I want to briefly say that if anybody doesn't think that the actions of these trusts, in this area, are an integral part of our overall effort on behalf of native Hawaiians, funded in part by tax breaks from the State, they are sadly mistaken.

"Charitable trustees, in general, and the Bishop Estate trustees, specifically, are at risk right now. They are at risk because of the things that have been in the media over the last couple of months and in fact years. There are probably investigations under way in Washington, D.C. right now. Reasonable compensation is one check and balance on the actions of charitable trustees from a national viewpoint. And I hope other colleagues speak to this later.

"Now we've known of this problem for a long time. We have been down this road so many times, I think some of us are sick of going down this road, and some of my colleagues have been going down this road long before I even arrived here.

"But the bottom line is that we have an inexorable movement towards reasonable compensation, towards modifying the compensation structure, towards subjecting the trustees of charitable trusts to compensation decisions that are overseen by the Probate Court as the Probate Court does in other states for charitable trusts, and as the Probate Court does in this State under the Uniform Probate Act for personal representatives in will situations. So as I have said before, this is nothing new.

"We had this issue before us earlier this year. The House, I believe mistakenly, chose to study this for a year. The Senate came out with what I regard as a very responsible, very responsive approach, which is to institute reasonable compensation. And that's what this Senate Draft 1 says, which is the matter before us right now. The Senate says instead of compensating charitable trustees according to a percentage scale set in the statute -- you get paid this amount, doesn't matter how you do or how you don't do -- you get paid this amount based on the subjective judgments by an independent judicial party.

"The Senate sent that back to us. The Conference did not move. I think that was a mistake. That's why I'm standing here, because I do not think that the House had done the right and the responsible thing in this situation. And I think this should be discussed on the floor.

"That's the substance of it. It's pretty straightforward. Many people agree with the position I'm articulating. The Governor agrees, the Attorney General agrees, the beneficiaries of many of these trusts agree. At a hearing in the House Judiciary Committee, even one of the trustees of the Kamehameha Schools/Bishop Estate agreed, as did his national compensation expert, who under questioning admitted that reasonable compensation was the standard in other states and would be appropriate in this situation.

"So I think on the substance of this, this is exactly the right way to go. And I'm ashamed to say here that I agree with the Senate. I'd like to support my own House, my own chambers, but when I see that the other side does a better job, first of all, I'm embarrassed by it because I have pride of sitting here, but I also say that if they do a better job, we should take it and go. There's nothing to be gained by a study. Let's resolve this. Let's move on. It will be good for everybody concerned.

"I also think there's a reason to do this from a procedural perspective. You know, this is a litmus test issue. This is an issue that the public looks at and they make judgments on the Legislature and on each one of us based on what we do. And those judgments don't have to do with the merits of this situation. They have to do with the merits of how the Legislature operates. And what the public thinks of us on this issue is, in essence, that a very small number of people treat us as nothing more than puppets. And they're going to pull our strings and they're going to make us do what they want."

The Chair interrupted Representative Case, stating:

"You're out of order, Representative. Will you please maintain yourself to the merits of what's at hand."

At this point, Representative Tarnas yielded his time to Representative Case.

Representative Case continued, stating:

"I'll simply wrap up, Mr. Speaker, by saying that I think this vote is a choice between the old way of doing things and the new way of doing things. Thank you."

Representative Kawanakoa then rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. A couple of things that need to be noted. This is a bipartisan issue. It transcends party, it transcends differences amongst people rich and poor. I think the entire state of the general public is very concerned with this particular salary, with respect to the Bishop Estate Trustees and other charitable trusts. I think if we look to other states, it's clear that they're reasonable standard is being applied in a growing,

if not majority of the states across the United States. It's an appropriate step for us to take care here in Hawaii.

"The only thing I would ask is that we take a look at the intent of the will. We take a look at the intent of Ke Ali'i Pauahi Bishop. And what did she intend when she drafted her trust for the benefit of native Hawaiian children? She intended the best for them. She wanted them to have a chance to succeed in their homeland. And today we have trustees who are mounting on million dollar salaries. I believe that in her time, the reasonable standards for compensation of trustees is in place. I think it is only fitting that we return to a reasonable standard as first envisioned by Ke Ali'i Pauahi Bishop.

"And in that manner, perhaps, turn back the clock. Set the Bishop Estate Trust on the proper course and allow people to join and contribute their time, their energies to this most notable and worthwhile entity on more of a pro bono basis, as other leading universities and scholarly institutions throughout the United States have their trustees perform their services.

"For all those reasons, Mr. Speaker, I simply ask everyone to vote their conscience. A vote that Ke Ali'i Pauahi Bishop would ask you to vote."

Representative Yonamine then rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I'm going to vote 'no' for reconsideration and let me explain that after I suggest for the discussion of this very important bill. I think the Probate Court can apply reasonable compensation standards, and we need to set the parameters for that. If an issue on a bill that should be discussed and has been discussed widely by not only all Hawaiians, by the people in our State and should be heard further, and I think this is an opportunity for members of the House if they wanted to, to come up and express themselves for and against the reconsideration of the bill.

"This bill as I see it has undergone much research and of course much thought and there's been a lot of 'soul searching', I think, by the people who crafted this bill. And it is in keeping with the possible reforms in the affairs of the trustees with Judiciary function, especially their policy making for the Kamehameha Schools. And this SD 1 bill is supported as has been mentioned by the Attorney General, the Governor, beneficiary groups, and many other organizations. With our House Draft 1, I don't know if there's much work left to do for the task force than what we have already done with the SD 1.

"So having said that, I vote 'no' for reconsideration. And why? It's simply this, Mr. Speaker. We have a very highly organized and systematic, and to me, a very positive organization scheme. And you have done it well. All of us have adhered to it. And we've seen years gone by under your leadership that our business at stake has been thoroughly discussed and we go through the normal and legitimate processes which have benefited all the people in this State.

"Now I think by raising or voting on this reconsideration, we are breaking all precedence and we're setting a precedence, I think. And it doesn't matter if you have one vote or 26 votes or 51 votes. I think we cannot afford to let bills or motions or amendments to be introduced on the floor after we have gone through our decision making apparatus which we have fruitfully done ever since I've been here. And so because of that, while this attempt is noble, we should not just take it and say: hey, let's do something with the reconsideration.

"I really believe that with the integrity that you have been entrusted with and we have adhered to and supported, the integrity of this House as an institution, and especially for the Majority Caucus, we should adhere to the rules that we have set up and that we have been abiding with. It has been very productive for us and it benefits everybody. Because of that, Mr. Speaker, I would vote 'no' for reconsideration."

Representative Ward then rose and stated:

"Mr. Speaker, I rise with a few comments what this bill is and what this bill is not.

"First, in regards to the last speaker, Mr. Speaker, this is not a bill about the pledge of allegiance to any caucus. This is about the people of Hawaii. It's about the Hawaiian people. I wish to speak in favor of the bill for those of you who are confused about the first opening remarks.

"This bill is also not about Mr. Henry Peters, Mr. Speaker. The bill is also not about Mr. Dickie Wong, Mr. Speaker. It's not about the things that we've seen in the paper -- imaginations of what otherwise seems to be a state run amuck. What the bill is about is saving the Bishop Estate. What the bill is about is putting it back into the hands of, by, and for the Hawaiian people. Because what this body needs to do is to clean up the Estate. What this bill needs to do in conjunction with the Attorney General's office is to do so by making reasonable standards of salaries in order that we would not jeopardize further the overall standing of the IRS. Without our action, we turn the trust over to the IRS, and we know the IRS is a consuming fire, Mr. Speaker.

"This is a small manini act that we are taking. If the IRS does not see any justice taken by the State of Hawaii to set right the trust, if that Estate loses its IRS status, we will have destroyed it as a means of saving it. An inaction is an attempt to destroy it. So, Mr. Speaker, by setting just compensation, let us not sacrifice those five people in what they made or what the salaries are, for what otherwise is a 250,000 population of people. Let us not take those five and their salaries for the sake of those many.

"And in the hurry to set and do what is reasonable will have very, very, very unreasonable consequences. Thank you."

Representative Goodenow then rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. This is a very sensitive issue for all of us. And I can certainly understand the desire of some to reconsider our disagreement, just wanting to have anything pass to let the Hawaiian community and the public know that we consider the current problems at Bishop Estate as being very serious and that the current level of compensation is out of line. I am sure that some of my colleagues might be thinking, 'Goodenow, he's so naive, in government you have to do whatever you can, things change slowly, you got to keep pushing things forward.' You know, I know that we're all upset by high trustee compensation, and this is only my first term, but I cannot vote for further legislative statutory regulation of Bishop Estate or any other specific private organization because in reality that's what we're doing here today. This is a Bishop Estate bill.

"Mr. Speaker, this is exactly how we got into this problem in the first place. I have here a copy of the 1943 Senate Journal and I'd like to submit this to be included in the Journal," and the Chair "so ordered".

Representative Goodenow continued, stating:

"April 19, 1943, Senator Heen, seconded by Senator Trask, submitted this report to then President of the Senate, Harold Rice, and I'd like to read here to emphasize some of this: 'The necessity of amending the law in regard to the commissions and allowances of trustees of trusts has arisen from the method of administration of the Bernice Pauahi Bishop Trust. The bill as introduced is designed to limit the commission of trustees of charitable trusts to a maximum of \$10,000 a year regardless of how many trustees participate in the administration of the trust.'

"Because of high trustee commissions at Bishop Estate, and I'll quote again from the report: 'During the past decade the cost of administration of this greatest of all Hawaiian estates amounted to slightly less than 25 percent of its income.' In order to reduce these excessive compensations, the Committee compares a lot of schools here: Punahou; Iolani; Lahainaluna, a public school; St. Louis, and they come out with a formula.

"I'd like to read some more: 'The bill would cut commissions to an amount that would constitute the equivalent of very substantial director's fees. The trustees, for many years, have maintained such an efficient and well paid staff composed not only of clerical employees, but a specialist in every field in which the estate is concerned...that the trustees have been relieved to a major extent of the burden of investigation and decision...reducing activities and responsibilities to a position roughly equivalent to that of directors of a corporation.' Sounds very familiar to our debate today.

"In fact, it even went further and questioned that the schools operation did not have provisions for day students. And they continued with other things that they mention that need to be corrected. My point is, Mr. Speaker, this is the very kind of thinking that brought us to this problem in the very beginning.

"I was one of the introducers of the original contents of this bill, under the lead of a man who I admire very much, the wise Representative of Kahului, Maui, but as much as I would like to say, 'it was my bill that solved the pay rate problem', the original was much simpler and far better. It was to just repeal the law. If the law were completely repealed, not amended, with this or a recommendation of some kind of capping mechanism, the trustees would get reasonable compensation. They would set it and then this would be reviewed by the court following the same sort of standards that the Representative of Manoa brought up, very clearly defined standards of court.

"But unlike...I don't know of any other example...here we have a State Legislature trying to impose what we think is fair. Under the current law, which we are now proposing to modify but we're still continuing, we define what is reasonable. I think we should just get ourselves out of the process. Let's stick to the will, the intention of the will..."

At this point, Representative Menor yielded his time to Representative Goodenow.

Representative Goodenow thanked the Chair and continued, stating:

"The intention of the will is to let the courts do the oversight of the trustees. I don't think the Princess wished for the State Legislature to continue to get involved in the affairs of the Estate. And this is what I hear from my constituents. Many have said, 'well yeah

criminal activity, maybe we have to look into that, but otherwise let's keep out of Estate affairs.'

"To me, we are just continuing an unnecessary and dangerous link between the Legislature, politics, and the Kamehameha Schools. This is a link that should be completely severed. This bill could be amended in the future. Maybe we'll be asked to define reasonableness. I mean if the intention is to leave this issue to a judge who can take into account all relevant circumstances, let's give it completely back to the court where the will requests it to be.

"You know, Mr. Speaker, I think we can all see a future when the students and alumni of the Kamehameha Schools are in the forefront of a new academic renaissance of Polynesian, and Hawaiian, poetry and literary study. An education that would be in the forefront of political discussion, philosophy of governing. The curriculum and methodology and cultural programs developed by Kamehameha Schools could be used throughout Polynesia. And some day Estate trustees may be appointed by the courts of a native Hawaiian sovereign entity.

"But I cannot see, Mr. Speaker, how imposing what we think is fair is going to get us to that stage. Why should the Legislature tell Bishop Estate what to do? To me, this is a type of top/down attitude. Something the Legislature has been accused of by the Hawaiian community before and I don't mean to offend anyone, and I know we all have the best intentions, but the Legislature should not have a role in regulating Bishop Estate. I don't think it is our role and I don't think it is our place. Thank you."

Representative Goodenow's additional remarks are as follows:

"Honolulu T.H. April 19, 1943

Honorable Harold W. Rice
President of the Senate

Sir:

Your Committee on Judiciary, to which was referred Senate Bill No. 42, entitled: 'AN ACT TO AMEND SECTION 3793 OF THE REVISED LAWS OF HAWAII 1935, AS AMENDED RELATING TO FEES AND EXPENSES OF EXECUTORS, ADMINISTRATORS, TRUSTEES, AND GUARDIANS', begs leave to report as follows:

The purpose of this bill is to separate charitable trusts from ordinary trust and to make a distinction in the commission charges, reflecting the great distinction between the purpose of private and charitable trusts.

The necessity for amending the law in regard to the commissions and allowance of trustees of trusts has arisen from the method of administration of the Bernice Pauahi Bishop Trust.

The bill as introduced was designed a limit the commissions of trustees of charitable trusts to a maximum of \$10,000.00 a year regardless of how many trustees participate in the administration of the trust.

Various amendments have been offered and discussed in committee and on April 17, 1943, your committee submitted an oral report recommending the passage of the bill in the amended form submitted at the time of such report, at the same time asking leave to file this subsequent written report.

Inasmuch as the bill is aimed primarily at the administration of the Bernice Pauahi Bishop Estate and the long and numerous hearings were devoted to the investigation of that administration, together with the contrasting administration of other private schools charitably operated, the report will deal with the situation developed from these hearings.

Over the ten years last past, the income of the Bishop Trust from all sources was \$6,326,332.22 and the administrative costs, including the commissions of the trustees, were \$1,503,283.92.

Thus, during the past decade the cost of administration of this greatest of all Hawaiian estates amounted to slightly less than 25% of the income.

The public hearings held by the committee disclosed that the schools are operating only the eighth to the twelfth grades, both inclusive, and that the attendance during the past ten years in both schools ran from a low of 344 in the 1932-33 period, the amount allocated from the income of the estate for the maintenance and operation of the schools ran from a high of \$351,071.72 in the school year 1932-33 to a low of \$280,842.21 in the school year 1934-35 the allocation for the 1941-42 year having been \$350,557.39 the actual cost of maintaining such schools in those years beginning from \$334,519.50 in the school year 1932-33 having been \$331,945.83.

The figures made available to your committee by the trustees of Punahou School cover a five-year period beginning with the school year 1936-1937 and closing with the school year 1940-41. The total income from all sources from those years had its low of \$373,189.88 in the 1936-37 school year and its high of \$450,945.01 in the school year 1940-41. The total operating cost in the same period had its low of \$301,204.01 in the school year 1936-37 and its high of \$386,174.97 in the school year 1940-41.

The average students at Punahou during those five years increased in number each year from 938 in the year 1936-37 to 1,406 in the year 1940-41.

Thus Punahou School, during those five years with a total income of \$1,997,217.96 spent a total of \$1,708,454.90 in educating 5,730 students.

During the same period, the Bernice Pauahi Bishop Trust from a total income of \$4,265,704.18 (including school revenues) spent a total of \$1,490,222.25 educating 3,719 students.

The Board of Trustees of Punahou, consisting of fifteen members, have no commissions or salaries with the exception of the treasurer who received \$150.00 per month as general salary and \$100.00 a month from the J.B. Castle Trust, administered by the trustees of Punahou, who charge no commission, both of which the treasurer turns over to the Bishop Trust Company, Limited, for keeping the records and accounts. One of the trustees of the Bernice Pauahi Bishop Estate is also a trustee of Punahou School, receiving nothing in compensation for his services.

Iolani School, the Board of Governors of fifteen members, none of them of whom receives compensation for his services and one of whom is also a trustee of the Bernice Pauahi Estate, has furnished your committee with a record of the three school years 1937-38, 1938-39 and 1939-40, which show income and disbursements for the school and enrollment during those three years as follows: 1937-38--income \$87,989.25, cost of school \$87,457.25 and enrollment of 442 students; 1938-39--income \$87,361.11, cost of school \$86,857.24, and enrollment of

485 students; 1939-40--income \$82,208.31, cost of school \$82,190.33, and enrollment of 513 students.

St. Louis College of which not only the trustees but the teaching staff receive no compensation, furnished your committee with the school costs and enrollment for the school years 1937-38 to 1941-42, both inclusive. In those five years the enrollment increased each year from a low of 1490 students in the year 1937-38 to 1663 in the year 1941-42, and the cost from \$97,375.13 in 1937-38 to \$101,761.95. From this cost amortization charges, interest, and an annual provincial assessment of from \$9,200.20 to \$15,400.00 have been met.

Lahainaluna School furnished your committee with a record of two school years 1940-41 and 1941-42. In the first of those years, the cost was \$61,971.23 for 468 students and in the second of said years, was \$64,971.23 for 441 students.

These schools have been used for purposes of comparison, inasmuch as they are all schools having both day scholars and boarders, and of a high reputation.

A number of trust officers of the incorporated trust companies of the city testified that in the administration of trusts, whether private or charitable, they made no charge in addition to their regular commissions for the clerical and incidental expenses of administration, and that although they secured allowances for the services of specialists when such specialists were needed, the income tax services carried only a nominal charge.

One of the trustees of this estate said that he turned over the whole, in some cases, and a portion, in other cases, of the fees he received as a trustee of other estates to the trust company of which he is an officer, and that such trust company looked after collections, expenditures and the keeping of records and accounts, without additional charge.

The individual trustees, two of whom already donate their services upon the governing Boards of Iolani and Punahou Schools, respectively, have said that they would be willing to donate their services in like manner to the administration of the Kamehameha Schools, if such administration were divorced from the administration of the great properties comprising the trust corpus.

Under the amended bill presented by your committee opportunity for such community service would be open to the trustees and the bill if enacted would cut their commissions to an amount that would constitute the equivalent of very substantial directors' fees. The trustees for many years have maintained such an efficient and well-paid staff, composed not only of clerical employees but of specialists in every major extent, of the burden of investigation and decision, reducing their activities and responsibilities to a position roughly equivalent to that of directors of a corporation.

Your Committee feels that attention should be called to the fact that the trustees in two major respects have violated the terms of the trust. The designation of the purposes of the trust include the following two provisions:

- (1) '...to erect and maintain in the Hawaiian Islands two schools, each for boarding and day scholars, one for boys and one for girls, to be known as, and called the Kamehameha Schools.'

- (2) 'I desire my trustees to provide first and chiefly a good education in the common English branches, and also instruction in morals and in such useful knowledge as may tend to make good and industrious men and women; and I desire

instruction in the higher branches to be subsidiary to the foregoing objects.'

The schools operated by the trustees are boarding schools without provision for day students and the fact that two or three day students are received does not change the fact that not only the spirit but the letter of Mrs. Bishop's requirement that the schools should be maintained for both day students and boarders has been violated.

The schools as maintained are designed for advanced students carrying the students through high school but making no provision for instruction the grades below the eighth. Reference to the quoted excerpts from the will makes it plain that the trustees have thus violated the most fundamental purpose of the trust.

Your committee presents herewith a statement and schedule concerning the land holdings of the Trustees of the Bernice Pauahi Estate in relation to all privately-owned land in Hawaii, and the inevitable effect of the immensity of such holdings; schedules of the estate over a period of ten years showing the cost and attendance at the schools, the income of the estate, and the cost of administration, including trustees commissions and counsel fees; the statements, herein above referred to, of the administration of Pauahi Bishop created the trust, have rendered long overdue this amendment to the statute awarding commissions to the trustees of charitable trusts.

Since making its oral report, your committee has given further study to the form of the bill, and now recommends that the amendment to the statute quoted in Section 1 of said bill be changed to read as follows:

'Notwithstanding any other provisions of this section or of any other law, in the case of an estate of a charitable trust, the commission of the trustees shall be limited to one and one-half per centre upon all moneys received in the nature of revenue of income of the estate such as rents, interest and general profits. Such trustees shall also be entitled to just and reasonable allowances for bookkeeping, clerical and special services, and expenses incidental thereto.'

As so amended, your committee recommends that the bill do pass.

Respectfully submitted.

W.H. Heen, Chairman
CLEM GOMES
D.K. TRASK
A. KAMOKILA CAMPBELL
SARAH TODD CUNNINGHAM"

At 6:30 o'clock p.m., Representative Kanoho asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:38 o'clock p.m.

Representative Okamura then rose and called for the question, seconded by Representative M. Oshiro.

Representative Thielen responded: "Mr. Speaker, before we have...Mr. Speaker."

The Chair responded: "The question has been called. You have not been recognized. All those in favor signify by saying aye...opposed say no...ayes have it."

Representative Kawanakoa then rose and stated:

"Mr. Speaker, I question the call of the Chair. I call for a vote of the House, division of the House, for that matter."

The Chair responded: "If you call for a division of the House. . .okay, all those in favor of the question..."

Representative Kawanakoa asked: "Could we have a roll call for the division of the House if that's what you're going to call for on voice vote, Mr. Speaker?"

The Chair responded: "Voice vote on a division of the House, I mean for the question -- I think that is out of order. The Chair has called and if there is a question to the ruling of the Chair. . .do you question the ruling of the Chair?"

Representative Kawanakoa responded: "By calling for a division of the House, I question your hearing, Mr. Speaker."

At 6:39 o'clock p.m., Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:40 o'clock p.m.

The Chair continued:

"All those in favor of a division of the House, please raise your right hand. Is there sufficient number? There's sufficient number. All those in favor of calling for the question, please rise. . .all those who oppose, would you please rise. . . 23, the ayes have it."

Representative Kawanakoa then rose and stated:

"Mr. Speaker, I call for a Roll Call at this point."

Representative Thielen then rose and stated:

"Mr. Speaker, I have a point of 'parliamentary procedure' question."

The Chair responded: "State your point."

Representative Thielen continued, stating:

"Thank you, Mr. Speaker. I know that there is at least one member of the House, Representative Tom, that receives direct compensation from the Bishop Estate."

The Chair responded: "You're out of order."

Representative Thielen asked: "I understand there is a Dowling/Bishop Estate real estate transaction in which you were paid some compensation, and I believe that Representative Herkes also received compensation. Are you going to reclude yourselves and refrain from voting?"

The Chair responded: "You're out of order, Representative. No, I'm not reclusing myself."

Representative Thielen asked: "I'm asking if the three of you who received direct compensation from Bishop Estate are going to refrain from voting on this."

The Chair responded: "They're not out of order. The Chair has ruled that they're not out of order."

Representative Thielen asked: "Are you going to declare your potential conflict for receiving..."

The Chair responded: "I have not received any income and you're out of order."

Representative Thielen asked: "Is Representative Tom going to declare that. . ."

At 6:44 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:46 o'clock p.m.

Representative Tom then rose and stated:

"Mr. Speaker, as I've done previously on this matter and I do it again, I ask for a ruling on conflict," and the Chair ruled "no conflict."

Representative Herkes then rose and stated:

"Mr. Speaker, for about the third time, I'd like to ask for a ruling. It's in my Ethic's statement, and I've asked for a ruling about three times before on this issue," and the Chair ruled "no conflict."

Representative Marumoto then rose on a point of personal privilege, stating:

"I really take offense of the fact that we have had the debate cut off several times during this year. This is not a Republican motion. This is a bipartisan one. There's a lot of strong feelings on both sides of this issue and by cutting off debate, you really frustrate a lot of us. I'm wondering whether we would be able to submit our remarks into the Journal," and the Chair "so ordered."

Representative Marumoto then thanked the Chair.

Representative Thielen submitted the following comments to be inserted into the Journal:

"By supporting a cap for trustees' compensation, we are trying to protect the tax exempt status of the Bishop Estate Trust. House Bill 2362, HD 1, SD 1, would provide 'reasonable compensation' for the trustees. The 'reasonable' standard is an accepted standard in trust law widely used in other jurisdictions.

"The present high level of compensation paid to Bishop Estate trustees is subject to challenge by the Internal Revenue Service and through court action. We do no favor to the Hawaiian beneficiaries or the Trust by protecting the trustees' excessive compensation.

"I am joined in this position by the authors of the 'Broken Trust,' the Hawaiian beneficiary group, Na Pua a Ke Ali'i Pauahi, the Governor, and the Attorney General.

Representative Pendleton submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise in favor of the motion. Mr. Speaker, the motion proffered by the distinguished Representative from Manoa relates to House Bill 2362. More specifically, the motion is to the effect that the House should reconsider its previous action where it disagreed with the Senate draft.

"Mr. Speaker, I believe we should now agree with the Senate draft to this House bill. House Bill 2362, HD 1, relates to charitable trusts. Rather than directly addressing the problem, the bill merely establishes a task force to study the problem further.

"I do not see how we would benefit from further discussion, talk, reflection, or the like. We already know

what we need to know. We have enough information to act reasonably and prudently.

"Mr. Speaker, the Senate draft is superior because it would establish the reasonable standard. This was and is the common law rule. Interestingly enough, this was the law at the time Bernice Pauahi Bishop drafted her will.

"Presently, we have a statutory scheme which enables trustees to give themselves six-figure salaries. This is not per se unreasonable. But what we have done by imposing the statutory scheme is make their six-figure salaries per se reasonable. This is perhaps an unintended consequence. But it is nonetheless a consequence. And I would add that it is a negative consequence.

"We should permit a probate judge to look at all of the material and relevant facts and circumstances and determine whether the salaries they give themselves are in fact reasonable.

"The Senate's bill will do this. The House version will not.

"It is not a matter of the-grass-is-greener-on-the-other-side syndrome. I have carefully thought about this issue. Other jurisdictions handle this matter this way.

"And I think we should learn from those other jurisdictions. Some say repealing the statutory framework is sufficient. I say it is not. There are other statutes relating to this subject. Arguably, some of those other statutes may in fact apply. This is why we must not only repeal the statutory framework on this issue. We must explicitly and expressly replace it with clear and unambiguous language to the effect that the reasonableness standard, that which is the common law, is what we in the Legislature want to govern the compensation of charitable trusts.

"Mr. Speaker, I stated that I have thought about this issue quite a bit. Let me perhaps share some of my reflections on the hearing we had earlier in the session in the Judiciary Committee. But first let me say a few words about the history behind the trust.

"Bernice Pauahi Bishop was clearly one of the most loving, caring, and compassionate women in Hawaii's history. For her, aloha was not just a word but a commitment in life to serving others, to putting others first. She spoke of Hawaii's keiki in a way which moved people. She spoke of education as key to Hawaii's future. For only when people are empowered with the ability to read, write, and think can they truly take control of their future.

"Mr. Speaker, Mrs. Bishop did more than just speak words. She acted. In her will she used her fortunes to educate Hawaii's keiki. She not only talked the talk but walked the walk. The thirteenth paragraph of her will reads, in pertinent part:

'I give, devise and bequeath all of the rest, residue and remainder of my estate, real and personal, wherever situated, unto the trustees below named, their heirs and assigns forever, to hold upon the following trusts, namely: to erect and maintain in the Hawaiian Islands two schools, each for boarding and day scholars, one for boys and one for girls, to be known as, and called the Kamehameha Schools.'

"The fourteenth paragraph of her will reads, in pertinent part:

'I direct that a majority of my said trustees may act in all cases and may convey real estate and perform all of

the duties and powers hereby conferred; but three of them at least must join in all acts. I further direct that the number of my said trustees shall be kept at five; and that vacancies shall be filled by the choice of a majority of the Justices of the Supreme Court.'

"These trustees, Mr. Speaker, were to carry out her intent to manage the trust so that the Kamehameha Schools could accomplish its mission of educating Hawaiian keiki.

"Little did she know that she had created what would later become the most powerful, influential, wealthy, famous -- some might say infamous -- charitable trust in the world. Her name, that of the Bishop family, should be associated with all that is good about Hawaii.

"Unfortunately, it has come to be associated with the opposite. Some have suggested that mismanagement and self-seeking best characterize how the trust is presently managed. Whether or not this is true, this is certainly the public's perception. And part of the public's perception has to do with the stratospheric compensation the trustees receive, which is in the upper six figures.

"In comparison, Mr. Speaker, Harvard University's trustees serve pro bono, that is, without compensation. And the rationale given is that the purpose of the trust is an educational one, and so the trustees should serve out of a sense of civic duty.

"Because of the very serious concerns about the perception of the Bishop Estate, bills were introduced this session to cap the salaries of trustees. I had wanted to introduce a bill to establish a reasonableness standard, but I saw that there was already a number of bills on this topic, and so not wishing to unnecessarily use up my allotted ten bills, I settled for the ones that had already been introduced.

"Let me briefly discuss three of the bills which were introduced. These three were set for a public hearing before the Judiciary Committee -- a Committee on which I have the privilege of serving.

"House Bill 2362 would have simply repealed Section 607-20. This is the section of Hawaii's laws which states that a trustee can receive a maximum commission of two percent on all moneys received in the nature of revenue or income of the estate as rents, interests, and general profits over \$205,000. It is this section of Hawaii's laws which has enabled Bishop Estate trustees to seek and receive the maximum commissions without recourse by those with standing. The fact that the law permits a two percent commission on an amount exceeding \$205,000 means that a billion dollar trust can legally generate six figure commissions for its trustees. Repealing Section 607-20 outright would probably result in lowering the salaries received by trustees. But there was the question or issue of the application of other HRS provisions. It was not guaranteed that simple repeal without any other legislative action would get us to the underlying reasonableness standard of the common law.

"Mr. Speaker, House Bill 2587 would have placed a cap on trustees' compensation. It would have specified that the fees or commissions received by trustees could be no more than three times the Governor's annual salary.

"House Bill 3007 would have similarly limited the fees or commissions of trustees to that of the Chief Justice of the Supreme Court.

"All three of these bills, in my opinion, would have been a right step toward addressing the issue of compensation. However, I believe that the reasonableness

standard is actually superior to all three. These bills nonetheless addressed Hawaii residents' concerns regarding the reasonableness of the compensation or commissions to Bishop Estate trustees.

"Mr. Speaker, during the hearing it became apparent that there was even a fourth possible reform which might have addressed the matter. A consensus was reached between many of the testifiers that a reasonableness standard -- an explicit and express reasonableness standard -- was a fair way to go. Any party with standing could have then challenged the issue of excessive compensation in a court of law. But the Judiciary Committee effectively decided to postpone legislative action. They did so over my strong reservations and over the 'no' votes of a couple of Representatives. I wish I had then decided to make a stronger political statement. I gave a speech then against the draft which merely called for a study. I spoke against it. I speak against it tonight.

"I voted 'aye with reservations' because I knew we needed a vehicle to meet the Senate bill and to discuss in conference. But we can act tonight. We can agree to the Senate's reasonableness standard.

"Now what was this bill for which I had such strong reservations? The Judiciary Committee passed out a bill which merely established a Task Force to study the issue. Apparently, this is an increasingly popular tactic, even though the testimony during the hearing indicated that the reasonableness standard would be an improvement over the current situation.

"Even Trustee Peters conceded as much. Let me repeat again: this is why I voted with strong reservations in favor of the Task Force proposal. The Task Force was marginally better than the status quo but not as good as a reasonableness standard, which we should have passed. This is also why two other Judiciary members voted no. It was not because they favored the status quo but rather because, like me, the Task Force approach is inferior to passing a bill requiring a reasonableness standard.

"Under the reasonableness standard, any party with standing can seek a hearing before a court to have the question of excessive compensation decided. Passing any of the other four options would have been superior to the Task Force option. The Legislature too often studies issues and all too infrequently acts with dispatch or boldness.

"Now is the moment of truth, Mr. Speaker. We have the opportunity this evening to acknowledge the wisdom of the Senate. We have the chance to do the right thing.

"Whatever the outcome, it is important to signal to Hawaii's residents that they have been heard, that we understand that we have a solemn obligation to the beneficiaries of the Trust established by Bernice Pauahi Bishop, and that we have the courage to act. As my Filipina grandmother would say to me as a kid when she found me paralyzed with indecision: 'Enough study -- today you do!'

"Mr. Speaker, 'Trust' is a five letter word. 'Estate' is a six letter word. But for some, both of these are four letter words -- especially when associated with the word 'Bishop.' For these members of the public, Bishop Trust or Bishop Estate is an unmentionable, a topic not fit for polite and civil dinner conversation. It certainly is not a topic which engenders much affection or aloha.

"This is not the fruit of jealousy, Mr. Speaker. They, on the contrary, are simply very much supportive of the keiki of Hawaii. They see that Mrs. Bishop never

intended for her charitable trust to be a 'political plum'. It was meant to serve Hawaiians. Imagine what the added four million dollars per year could do for Hawaii's keiki. And this would still leave each trustee with, say, \$100,000 each per year in compensation.

"Now I am not predicting that this is what a judge would deem reasonable under the circumstances. I am just suggesting that, like Harvard, we are dealing with a very large trust dedicated to education. Those trustees serve pro bono -- simply out of love and devotion to the education of young people attending Harvard. Perhaps we ought to make that the motivation for service on this prestigious Board of Trustees.

"How ironic that such civic-mindedness is evident on the so-called cold Eastern shore when here in balmy Honolulu, we cannot muster within our own ranks an attitude of service for the sake of service. Instead, we have service for the sake of personal profit.

"I am not saying that the trustees are bad people or greedy. While this may be the public's perception, I will not judge. I will say that we have a perception with which we must deal. We also have the solemn obligation to act in the best interests of the beneficiaries. That is our responsibility as elected officials.

"Mr. Speaker, for the foregoing reasons I stand in strong support of the motion before us. I believe we ought to agree to the Senate's amendment to House Bill 2362.

"Now is the time to join hands to ensure that Bernice Pauahi Bishop's dream becomes a reality.

"Thank you, Mr. Speaker."

Representative Suzuki submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I stand in favor of the motion.

"Mr. Speaker, a short two years ago, in July 1996, Congress saw fit to pass laws which provide for sanctions that can be imposed by IRS on trustees of charitable trusts who receive 'excess benefits'. The law clearly includes in the definition of excess benefits, any compensation that is in excess of what would be reasonable under the circumstances.

"But what is of real significance is that the law can further be applied by the IRS to deny the non-taxable status of charitable trusts where these sanctions are imposed in instances of abuse related to these 'excess benefits.'

"The jeopardy of a loss of federal non-taxable status would be a loss to the trust beneficiaries and possibly the State of Hawaii and should be avoided. This objective can certainly be fostered by the State by agreeing to this motion to reconsider action previously taken.

"Thank you, Mr. Speaker."

Representative Morita submitted the following comments to be inserted into the Journal:

"Mr. Speaker, I rise in support of reconsideration of House action previously taken on H.B. 2362, HD 1, SD 1, entitled: 'A Bill for an Act Relating to Charitable Trusts.' This bill establishes a reasonable standard of compensation for trustees of charitable trusts. I would like to begin by first incorporating the comments of my colleague from Manoa as my own (by reference only) with these additional remarks.

"As a beneficiary of Ke Ali'i Pauahi and a legislator, I am doubly responsible for the integrity of the trust. For far too long, the position and compensation of a Kamehameha Schools/Bishop Estate trustee has been held as a political plum. This reconsideration is the first step to correcting a wrong, or at the very least the appearance of impropriety.

"This bill needs to be reconsidered in order to change the current statutory formula provided in H.R.S. §607-20. The current statute is flawed because it attempts to set fixed amounts and percentages based on the income of the Estate. However, a statutory formula cannot always meet special circumstances as found in the Estate of Ke Ali'i Pauahi. As the attorney for Na Pua a Ke Ali'i Pauahi points out in her testimony, 'the growth of the Bishop Estate trust corpus is due largely to: 1) the billions of dollars generated by Bishop Estate leases under Hawaii's Land Reform Act; and 2) the inflationary increase in Hawaii's land values, including the specific effects of the Japanese bubble period in the 80s and 90s; and 3) more recently, the extraordinary growth of the stock market.' These types of factors are not considered within the statutory formula provided in H.R.S. §607-20.

"More importantly, any proposed structure must be able to stand the test of time and changing circumstances. This bill states that 'in the case of a charitable trust, the compensation of the trustees shall be limited to an amount that is reasonable under the circumstances.' Hence, compensation can be appropriately tailored to a number of factors based on the circumstances at the time.

"Finally, any statutory scheme implemented by this Legislature must keep in mind the role of a trustee as a manager of funds, requiring the highest standards of integrity and business judgment.

"For these reasons, Mr. Speaker, I strongly urge this body to support the motion to reconsider previous action taken on H.B. 2362, HD 1, SD 1.

Representative Marumoto submitted the following comments to be inserted into the Journal:

"Although Bishop Estate trustees make obscure profits, I do not necessarily fault them for their take home pay that the law allows them. However, I do favor a more reasonable compensation (i.e. lower pay). But what I would truly like to see is the installation of a process whereby a trustee can be replaced if they depart from their fiduciary duties. I favor renewable terms whereby a trustee can continue to serve if they are doing a good job. If they are not, they then can be replaced at the end of their term. As it now stands, we are stuck with a problem with no solution.

"Yes, we can lower the salaries and that will make it a less desirable political, power, money plum and that's about the most we can do today. So let's do it, vote 'yes' to accept the amendments made by the Senate. Reasonable is reasonable."

Representative Stegmaier submitted the following comments to be inserted into the Journal:

"I rise to speak in support of House Bill No. 2362, HD 1, SD 1, charitable trustee compensation.

"We have an opportunity to improve the image of the Legislature by addressing yet another issue that has been avoided for so long.

"The people want to have greater trust in our public institutions; they want to have greater confidence in their elected Representatives.

"There are few issues that would do this more dramatically than this one, Mr. Speaker.

"We have an opportunity by this vote to turn a new page in our legislative history --- and under your wise leadership, Mr. Speaker, we, the members of the House, can do this right now."

As requested earlier, Representative Kawanakoa asked for a Roll Call on the motion and upon a show of hands, the request was granted.

Roll call vote having been requested, the motion to reconsider action previously taken on April 16, 1998, in disagreeing to the amendments proposed by the Senate to House Bill 2362, was put to vote by the Chair and failed to carry on the following showing of Noes and Ayes.

Noes, 26: Representatives Abinsay, Ahu Isa, Cachola, Chang, Garcia, Goodenow, Herkes, Ito, Jones, Kahikina, Kanoho, Kawakami, Menor, Morihara, Nakasone, Okamura, M. Oshiro, P. Oshiro, Say, Tom, Whalen, White, Yamane, Yonamine, Yoshinaga and Souki.

Ayes, 25: Representatives Aiona, Arakaki, Case, Fox, Halford, Hamakawa, Hiraki, Kawanakoa, Lee, Marumoto, McDermott, Meyer, Morita, Moses, Pendleton, Saiki, Santiago, Stegmaier, Suzuki, Takai, Takamine, Takumi, Tarnas, Thielen and Ward.

DISPOSITION OF MATTERS PLACED ON THE CLERK'S DESK

H.C.R. No. 9, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 9 and H.C.R. No. 9, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO A MAJOR SPORTS FRANCHISE," was Finally adopted.

H.C.R. No. 14, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 14, HD 1, and H.C.R. No. 14, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR POST-MASTECTOMY BREAST RECONSTRUCTION SURGERY, AND A SEPARATE STUDY TO ANALYZE THE PROBABLE EFFECT OF THE PROPOSED REGULATORY LANGUAGE CHANGE FOR PHYSICIAN ASSISTANTS CONTAINED IN SENATE BILL NO. 3234 (1998)," was Finally adopted.

H.C.R. No. 17, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 17 and H.C.R. No. 17, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF THE WAHIAWA CENTENNIAL CELEBRATION COMMISSION BY EXECUTIVE ORDER," was Finally adopted.

H.C.R. NO. 24, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 24, HD 1, and H.C.R. No. 24, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE U.S. CONGRESS, THE PRESIDENT OF THE UNITED STATES, AND THE SECRETARY OF HEALTH AND HUMAN SERVICES TO SUPPORT THE HAWAII CONGRESSIONAL DELEGATION'S EFFORT TO AMEND THE SOCIAL SECURITY ACT TO INCREASE HAWAII'S FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)," was Finally adopted.

H.C.R. No. 26, HD 2, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 26, HD 2, and H.C.R. No. 26, HD 2, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO REVIEW HAWAII'S IMPAIRED DRIVING STATUTES AND TO MAKE RECOMMENDATIONS FOR UNIFORM STATUTORY CONSTRUCTION," was Finally adopted.

H.C.R. No. 34, HD 2, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 34, HD 2, and H.C.R. No. 34, HD 2, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE FEDERAL TRADE COMMISSION TO RE-EVALUATE THE AGREEMENT CONTAINING CONSENT ORDER IN THE MATTER OF SHELL OIL COMPANY AND TEXACO INC. (FILE NO. 971-0026)," was Finally adopted.

H.C.R. No. 38, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 38, HD 1, and H.C.R. No. 38, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION ESTABLISHING A STATE POLICY FOR IMPROVING THE WELL-BEING OF CHILDREN, YOUTH, AND FAMILIES," was Finally adopted.

H.C.R. No. 50, HD 2, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 50, HD 2, and H.C.R. No. 50, HD 2, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO FORMULATE A NEW QUEST DISTRIBUTION METHODOLOGY," was Finally adopted.

H.C.R. No. 60, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 60 and H.C.R. No. 60, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE CONSTRUCTION OF A MULTI-PURPOSE SPORTS AND RECREATION COMPLEX IN HILO," was Finally adopted.

H.C.R. No. 83, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 83, HD 1, and H.C.R. No. 83, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CUSTOMS SERVICE AND THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE TO SEEK OUT AND ASSESS TECHNOLOGIES THAT WILL EXPEDITE THE CUSTOMS AND IMMIGRATION CLEARANCE PROCESS AT THE HONOLULU INTERNATIONAL AIRPORT," was Finally adopted.

H.C.R. No. 90, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 90, HD 1, and H.C.R. No. 90, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONTINUED SUPPORT BY HAWAII'S CONGRESSIONAL DELEGATION TO PROVIDE FILIPINO-AMERICAN VETERANS WHO SERVED HONORABLY IN ACTIVE-DUTY STATUS UNDER USAFFE, OR WITHIN THE PHILIPPINE ARMY, THE PHILIPPINE SCOUTS, OR RECOGNIZED GUERRILLA UNITS BETWEEN SEPTEMBER 1, 1939 AND DECEMBER 31, 1946, WITH THE SAME VETERANS BENEFITS AS PERSONS WHO SERVED IN THE ARMED FORCES OF THE UNITED STATES OR JOINED THE PHILIPPINE SCOUTS BEFORE OCTOBER 6, 1945," was Finally adopted.

H.C.R. No. 102, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 102, HD 1, and H.C.R. No. 102, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE CITY AND COUNTY OF HONOLULU TO RESOLVE THE PROBLEMS WITH THE HONOLULU SYMPHONY AND WORK TOWARDS AN AMICABLE SETTLEMENT OF BOOKING DATES," was Finally adopted.

H.C.R. No. 117, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 117, HD 1, and H.C.R. No. 117, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF MOTOR VEHICLE INSURANCE PREMIUM REDUCTIONS FOR DRIVER'S EDUCATION COURSE GRADUATES," was Finally adopted.

H.C.R. No. 120, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 120, HD 1, and H.C.R. No. 120, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION ESTABLISHING A JOINT LEGISLATIVE COMMITTEE ON EARLY CHILDHOOD EDUCATION AND CARE," was Finally adopted.

H.C.R. No. 156, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 156 and H.C.R. No. 156, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO IDENTIFY, COMPILER, AND SUMMARIZE AVAILABLE

DEMOGRAPHIC DATA ON NATIVE HAWAIIANS," was Finally adopted.

H.C.R. No. 162, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 162, HD 1, and H.C.R. No. 162, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE WAIKIKI YACHT CLUB'S ALOHA RACING CHALLENGE TO THE ROYAL NEW ZEALAND YACHT SQUADRON FOR AMERICA'S CUP XXX," was Finally adopted.

H.C.R. No. 163, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 163 and H.C.R. No. 163, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE BIG ISLAND'S YOUTH LEADERSHIP DEMONSTRATION PROJECT BE ALLOWED TO USE GENERAL FUNDS IN A MANNER THAT WOULD GENERATE ADDITIONAL SOURCES OF REVENUE TO FINANCIALLY SUSTAIN FUTURE STUDENT PROGRAMS," was Finally adopted.

H.C.R. No. 177, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 177, HD 1, and H.C.R. No. 177, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE IMPLEMENTATION OF THE AUDITOR'S RECOMMENDATIONS OF THE MANAGEMENT OF MAUNA KEA AND THE MAUNA KEA SCIENCE RESERVE," was Finally adopted.

H.C.R. No. 197, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 197, HD 1, and H.C.R. No. 197, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII AND THE DEPARTMENT OF EDUCATION TO ADDRESS THE TEACHER SHORTAGE AND TEACHER TRAINING NEEDS," was Finally adopted.

H.C.R. No. 202, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 202 and H.C.R. No. 202, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CHAIRPERSON OF THE BOARD OF AGRICULTURE TO CONVENE A SERIES OF MEETINGS TO ASSESS AND RECOMMEND SOLUTIONS REGARDING LAND TENURE AND FINANCING TO ASSIST HAWAII'S AGRICULTURAL DEVELOPMENT," was Finally adopted.

H.C.R. No. 212, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 212 and H.C.R. No. 212, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE DEPARTMENT OF EDUCATION, THE UNIVERSITY OF HAWAII, AND THE PRIVATE SECTOR TO

DEVELOP PARTNERSHIPS, TO PROVIDE ADDITIONAL SUPPORT FOR EDUCATION THROUGH CURRICULUM DEVELOPMENT AND RELATED TRAINING OPPORTUNITIES," was Finally adopted.

H.C.R. No. 213, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 213, HD 1, and H.C.R. No. 213, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII, IN COOPERATION WITH THE LEEWARD DISTRICT OFFICE OF THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, TO STUDY AND REPORT ON THE FEASIBILITY OF UTILIZING THE FORMER SHERATON MAKAHA INN AS AN EDUCATIONAL, TRAINING, CONFERENCE, AND OUTREACH FACILITY," was Finally adopted.

H.C.R. No. 223, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 223, HD 1, and H.C.R. No. 223, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A STUDY OF MANDATORY HEALTH INSURANCE COVERAGE FOR MENTAL HEALTH AND SUBSTANCE ABUSE," was Finally adopted.

H.C.R. No. 225, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 225, HD 1, and H.C.R. No. 225, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY TO ASSESS STRATEGIES FOR ORGANIZING THE VARIOUS FORMS OF RESIDENTIAL CARE PROVIDERS," was Finally adopted.

H.C.R. No. 226, HD 1, SD 1:

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the House agreed to the amendments proposed by the Senate to H.C.R. No. 226, HD 1, and H.C.R. No. 226, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH THE CITY AND COUNTY OF HONOLULU DEPARTMENT OF PARKS AND RECREATION AND PRIVATE ORGANIZATIONS TO ASSIST THE PHILIPPINE CENTENNIAL CELEBRATION COORDINATING COMMITTEE/HAWAII," was Finally adopted.

ANNOUNCEMENT

Representative M. Oshiro moved to keep the Journal open until midnight this legislative day for the purpose of receiving Conference Committee Reports, seconded by Representative Marumoto and carried.

At 6:55 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Conference Committee Reports.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 8:00 p.m. tomorrow, Wednesday, May 6, 1998.

SIXTY-FIRST DAY

Wednesday, May 6, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 9:11 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Galen Fox, after which the Roll was called showing all members present with the exception of Representatives Hiraki and Meyer, who were excused.

By unanimous consent, reading and approval of the Journal of the Sixtieth Day was deferred.

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 216) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 216, transmitting the Executive Order providing for a further extension of the Regular Session of 1998 of the Nineteenth State Legislature, which reads as follows:

"EXECUTIVE ORDER

WHEREAS, Section 10 of Article III of the Constitution of the State of Hawaii provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the Governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby further extend the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii from 12:00 o'clock midnight, Wednesday, May 6, 1998, to 12:00 o'clock midnight, Monday, May 11, 1998.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 6th day of May, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Margery S. Bronster

MARGERY S. BRONSTER
Attorney General

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 738 through 745) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 738, informing the House that the Senate has adopted H.C.R. No. 88, HD 1, SD 1, CD 1, on May 5, 1998.

Sen. Com. No. 739, informing the House that the Senate has adopted the following Senate Concurrent Resolutions on May 5, 1998:

S.C.R. No. 28, SD 1, HD 1, CD 1
S.C.R. No. 146, SD 2, HD 1, CD 1
S.C.R. No. 191, SD 2, HD 1, CD 1

Sen. Com. No. 740, informing the House that the Senate has agreed to the amendments proposed by the House to the following Senate Concurrent Resolutions and that said resolutions were adopted in the Senate on May 5, 1998:

S.C.R. No. 9, SD 1, HD 1
S.C.R. No. 34, SD 1, HD 1
S.C.R. No. 48, SD 1, HD 1
S.C.R. No. 59, SD 1, HD 1
S.C.R. No. 71, SD 1, HD 1
S.C.R. No. 81, SD 1, HD 1
S.C.R. No. 121, SD 1, HD 1
S.C.R. No. 137, SD 1, HD 1
S.C.R. No. 153, SD 1, HD 1
S.C.R. No. 190, SD 1, HD 2
S.C.R. No. 200, SD 1, HD 1

Sen. Com. No. 741, informing the House that the Senate has reconsidered its action of April 6, 1998, in disagreeing to the amendments proposed by the House in Senate Bill No. 3015, SD 2, HD 1, and has moved to agree to the amendments, and said Senate Bill No. 3015, SD 2, HD 1, passed Final Reading in the Senate on May 5, 1998.

Sen. Com. No. 742, informing the House that the Senate has reconsidered its action of April 16, 1998, in disagreeing to the amendments proposed by the House to the following Senate Bills and have moved to agree to the amendments. The Senate further informs the House that said bills have passed Final Reading in the Senate on May 5, 1998:

S.B. No. 2495, SD 1, HD 1
S.B. No. 3105, SD 1, HD 1

Sen. Com. No. 743, informing the House that the following bills have passed Final Reading in the Senate on May 5, 1998:

S.B. No. 1362, HD 1, entitled: "RELATING TO NEGOTIABLE INSTRUMENTS";

S.B. No. 1946, SD 1, HD 2, entitled: "RELATING TO THE PRACTICE OF MEDICINE";

S.B. No. 2581, HD 1, entitled: "RELATING TO CEMETERY AND FUNERAL TRUSTS";

S.B. No. 2586, SD 1, HD 1, entitled: "RELATING TO CAPTIVE INSURANCE COMPANIES";

S.B. No. 2610, SD 1, HD 1, entitled: "RELATING TO PROFESSIONAL LAND SURVEYORS";

S.B. No. 2644, SD 1, HD 1, entitled: "RELATING TO BEAUTY CULTURE";

S.B. No. 2820, HD 1, entitled: "RELATING TO THE CODE OF FINANCIAL INSTITUTIONS";

- S.B. No. 2821, HD 1, entitled: "RELATING TO THE CODE OF FINANCIAL INSTITUTIONS";
- S.B. No. 2832, SD 2, HD 1, entitled: "RELATING TO INVESTIGATIVE SUBPOENAS";
- S.B. No. 2835, SD 1, HD 2, entitled: "RELATING TO INSURANCE PREMIUM TAXES";
- S.B. No. 2836, SD 1, HD 1, entitled: "RELATING TO INSURANCE FRAUD";
- S.B. No. 2838, SD 1, HD 1, entitled: "RELATING TO INSURANCE";
- S.B. No. 2981, SD 1, HD 1, entitled: "RELATING TO MOTOR VEHICLE INSURANCE";
- S.B. No. 3143, SD 1, HD 2, entitled: "RELATING TO UTILITY TRANSMISSION LINES";
- S.B. No. 2770, SD 2, HD 2, CD 1, entitled: "RELATING TO MEASUREMENT STANDARDS";
- S.B. No. 2135, SD 1, HD 1, CD 1, entitled: "RELATING TO UNFAIR AND DECEPTIVE TRADE PRACTICES";
- S.B. No. 2575, SD 1, HD 1, CD 1, entitled: "RELATING TO CORPORATIONS";
- S.B. No. 2833, HD 1, CD 1, entitled: "RELATING TO MOTOR VEHICLE LEASE DISCLOSURE";
- S.B. No. 3114, SD 2, HD 2, CD 1, entitled: "RELATING TO THE RENTAL HOUSING TRUST FUND";
- S.B. No. 3035, SD 2, HD 2, CD 1, entitled: "RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII";
- S.B. No. 1597, SD 1, HD 2, CD 1, entitled: "RELATING TO AQUATIC RESOURCES PENALTIES";
- S.B. No. 3137, SD 1, HD 2, CD 1, entitled: "RELATING TO MOTOR CARRIERS";
- S.B. No. 2559, SD 2, HD 1, CD 1, entitled: "RELATING TO EXPLOSIVES";
- S.B. No. 2136, SD 1, HD 1, CD 1, entitled: "RELATING TO LIQUOR CONTROL ADJUDICATION BOARD";
- S.B. No. 1065, SD 1, HD 1, CD 1, entitled: "RELATING TO ELECTION OFFENSES";
- S.B. No. 3113, SD 1, HD 1, CD 1, entitled: "RELATING TO REAL PROPERTY";
- S.B. No. 3159, SD 2, HD 1, CD 1, entitled: "RELATING TO THE TIME SHARE LAW";
- S.B. No. 2717, SD 1, HD 1, CD 1, entitled: "RELATING TO FAMILY COURT";
- S.B. No. 2414, SD 1, HD 1, CD 1, entitled: "RELATING TO PAWNBROKERS";
- S.B. No. 2469, SD 1, HD 1, CD 1, entitled: "RELATING TO THE UNIFORM SECURITIES ACT";
- S.B. No. 2588, SD 1, HD 1, CD 1, entitled: "RELATING TO VETERINARY MEDICINE";
- S.B. No. 2823, SD 1, HD 1, CD 1, entitled: "RELATING TO TIME SHARE IDENTIFICATION BADGES";
- S.B. No. 2411, SD 2, HD 1, CD 1, entitled: "RELATING TO MOTOR VEHICLE INSURANCE";
- S.B. No. 2256, SD 1, HD 1, CD 1, entitled: "RELATING TO BARBERS POINT HARBOR";
- S.B. No. 2759, SD 2, HD 1, CD 1, entitled: "RELATING TO THE TRAFFIC CODE";
- S.B. No. 2957, SD 2, HD 1, CD 1, entitled: "RELATING TO OUTDOOR ADVERTISING";
- S.B. No. 2454, SD 1, HD 2, CD 1, entitled: "RELATING TO VOCATIONAL REHABILITATION";
- S.B. No. 2768, SD 1, HD 2, CD 1, entitled: "RELATING TO PAYMENTS TO HEALTH CARE PROVIDERS FOR WORKERS' COMPENSATION CLAIMS";
- S.B. No. 3228, SD 1, HD 1, CD 1, entitled: "RELATING TO HEALTH";
- S.B. No. 2580, SD 1, HD 1, CD 1, entitled: "RELATING TO THE HAWAII STATE STUDENT COUNCIL";
- S.B. No. 2460, SD 2, HD 2, CD 1, entitled: "RELATING TO ACQUISITION OF HOSPITALS";
- S.B. No. 3088, SD 1, HD 2, CD 1, entitled: "RELATING TO JOB REFERENCE LIABILITY";
- S.B. No. 2866, SD 1, HD 1, CD 1, entitled: "RELATING TO PERSONNEL FOR MENTAL HEALTH";
- S.B. No. 2346, SD 2, HD 2, CD 1, entitled: "RELATING TO INSURANCE";
- S.B. No. 1273, SD 1, HD 2, CD 1, entitled: "RELATING TO VICTIMS OF SEXUAL ASSAULT";
- S.B. No. 1309, SD 1, HD 2, CD 1, entitled: "RELATING TO CRIMINAL INJURIES COMPENSATION";
- S.B. No. 720, SD 2, HD 2, CD 1, entitled: "RELATING TO THE FEES AND COSTS FOR THE ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE";
- S.B. No. 2326, SD 1, HD 2, CD 1, entitled: "RELATING TO THE HAWAII EMPLOYER'S MUTUAL INSURANCE COMPANY";
- S.B. No. 2624, SD 2, HD 2, CD 1, entitled: "RELATING TO THE HOMELESS";
- S.B. No. 2803, SD 2, HD 2, CD 1, entitled: "RELATING TO HAWAII SMALL BUSINESS REGULATORY FLEXIBILITY ACT";
- H.B. No. 3367, HD 1, SD 1, CD 1, entitled: "RELATING TO HEALTH TOURISM";
- H.B. No. 2778, SD 1, CD 1, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR LEGAL

SERVICES FOR DEPARTMENT OF HAWAIIAN HOME LANDS INDIVIDUAL CLAIMS REVIEW";

H.B. No. 2533, HD 1, SD 2, CD 1, entitled: "RELATING TO QUARANTINE";

H.B. No. 2985, HD 1, SD 1, CD 1, entitled: "RELATING TO IRRIGATION AND WATER UTILIZATION PROJECTS";

H.B. No. 3138, HD 1, SD 1, CD 1, entitled: "RELATING TO THE COUNTIES";

H.B. No. 3457, HD 2, SD 2, CD 1, entitled: "RELATING TO THE WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA";

H.B. No. 1815, HD 1, SD 2, CD 1, entitled: "RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM";

H.B. No. 1830, HD 1, SD 1, CD 1, entitled: "RELATING TO EMERGENCY MEDICAL SERVICES";

H.B. No. 2878, HD 1, SD 1, CD 1, entitled: "RELATING TO AQUATIC RESOURCES";

H.B. No. 3289, HD 1, SD 1, CD 1, entitled: "RELATING TO LIABILITY";

H.B. No. 3403, HD 2, SD 1, CD 1, entitled: "RELATING TO OFFENSES AGAINST PROPERTY";

H.B. No. 2598, HD 2, SD 2, CD 1, entitled: "RELATING TO AUTOMATIC EXTERNAL DEFIBRILLATORS";

H.B. No. 92, HD 2, SD 1, CD 1, entitled: "RELATING TO MOTOR VEHICLES";

H.B. No. 2332, HD 2, SD 1, CD 1, entitled: "RELATING TO THE TRAFFIC CODE";

H.B. No. 1099, HD 2, SD 1, CD 1, entitled: "RELATING TO OCCUPATIONAL THERAPISTS";

H.B. No. 2843, HD 1, SD 2, CD 1, entitled: "RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS";

H.B. No. 2852, HD 2, SD 2, CD 1, entitled: "RELATING TO TELEHEALTH";

H.B. No. 2666, HD 1, SD 1, CD 1, entitled: "RELATING TO DOMESTIC VIOLENCE";

H.B. No. 2355, HD 1, SD 1, CD 1, entitled: "RELATING TO CRIMINAL TRESPASS";

H.B. No. 2357, HD 2, SD 1, CD 1, entitled: "RELATING TO INDEMNIFICATION OF COUNTY AGENCIES";

H.B. No. 2496, HD 2, SD 1, CD 1, entitled: "RELATING TO SERVICES FOR THE INDIGENT";

H.B. No. 2524, HD 1, SD 1, CD 1, entitled: "RELATING TO CONTESTS FOR CAUSE";

H.B. No. 2613, HD 1, SD 1, CD 1, entitled: "RELATING TO THE BOARD OF SUPERVISORS";

H.B. No. 2776, HD 1, SD 2, CD 1, entitled: "RELATING TO RESTITUTION";

H.B. No. 2779, SD 1, CD 1, entitled: "RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT";

H.B. No. 2872, HD 1, SD 1, CD 1, entitled: "RELATING TO FIRE PROTECTION INSPECTIONS";

H.B. No. 2992, HD 2, SD 1, CD 1, entitled: "RELATING TO NOTARIES PUBLIC";

H.B. No. 3192, HD 1, SD 1, CD 1, entitled: "RELATING TO SUPPORT ENFORCEMENT";

H.B. No. 3468, HD 2, SD 2, CD 1, entitled: "RELATING TO HAWAII HEALTH SYSTEMS CORPORATION";

H.B. No. 3024, SD 1, CD 1, entitled: "RELATING TO PUBLIC ASSISTANCE";

H.B. No. 1332, HD 2, SD 2, CD 1, entitled: "RELATING TO THE STATE WATER CODE";

H.B. No. 2842, HD 1, SD 1, CD 1, entitled: "RELATING TO THE DIRECTOR OF HEALTH";

H.B. No. 2862, HD 2, SD 2, CD 1, entitled: "RELATING TO SERVICES FOR DEVELOPMENTAL DISABILITIES";

H.B. No. 2714, HD 2, SD 1, CD 1, entitled: "RELATING TO UNCOLLECTIBLE ACCOUNTS IN THE JUDICIARY";

H.B. No. 503, HD 2, SD 2, CD 1, entitled: "RELATING TO CORRECTIONAL INDUSTRIES";

H.B. No. 2870, SD 2, CD 1, entitled: "RELATING TO WORKERS' COMPENSATION";

S.B. No. 2983, SD 2, HD 2, CD 1, entitled: "RELATING TO OFFICE OF INFORMATION PRACTICES";

S.B. No. 2037, SD 1, HD 2, CD 1, entitled: "RELATING TO HEALTH INSURANCE";

S.B. No. 2655, SD 1, HD 1, CD 1, entitled: "RELATING TO BICYCLE AND MOPED REGISTRATION";

S.B. No. 2786, HD 1, CD 1, entitled: "RELATING TO SEX OFFENDER REGISTRATION";

S.B. No. 2602, SD 1, HD 1, CD 1, entitled: "RELATING TO LANDSCAPE ARCHITECTS";

S.B. No. 3043, SD 2, HD 2, CD 1, entitled: "RELATING TO GOVERNMENT COMPUTER SYSTEMS WHICH ARE NOT YEAR 2000 COMPLIANT";

S.B. No. 2078, SD 1, HD 3, CD 1, entitled: "RELATING TO OCEAN RECREATION";

S.B. No. 2887, SD 1, HD 1, CD 1, entitled: "RELATING TO AMUSEMENT RIDES, INCLUDING BUNGEE JUMPING";

S.B. No. 2297, SD 2, HD 1, CD 1, entitled: "RELATING TO HEALTH";

S.B. No. 2987, SD 2, HD 3, CD 1, entitled: "RELATING TO CHILD PROTECTION";

S.B. No. 632, SD 2, HD 3, CD 1, entitled: "RELATING TO TRAFFIC ENFORCEMENT";

S.B. No. 2249, SD 1, HD 2, CD 1, entitled: "RELATING TO CORRECTIONS";

S.B. No. 2399, SD 2, HD 2, CD 1, entitled: "RELATING TO ELECTIONS";

S.B. No. 721, SD 1, HD 2, CD 1, entitled: "RELATING TO THE JUDICIARY";

H.B. No. 2443, HD 2, SD 1, CD 1, entitled: "RELATING TO REAL PROPERTY ENCROACHMENT";

H.B. No. 2701, HD 2, SD 1, CD 1, entitled: "RELATING TO TELECOMMUNICATION";

H.B. No. 2567, HD 2, SD 1, CD 1, entitled: "RELATING TO THE DUPLICATION OF GOVERNMENTAL SERVICES";

H.B. No. 3257, HD 2, SD 1, CD 1, entitled: "RELATING TO CRIMINAL HISTORY CHECKS";

H.B. No. 2358, HD 2, SD 1, CD 1, entitled: "RELATING TO CHILD PASSENGER RESTRAINT SYSTEMS";

H.B. No. 3022, HD 2, SD 1, CD 1, entitled: "RELATING TO YOUTH FACILITY";

H.B. No. 2361, HD 1, SD 2, CD 1, entitled: "RELATING TO MOTOR VEHICLE TOWING FEES";

H.B. No. 2837, HD 1, SD 2, CD 1, entitled: "RELATING TO SCHOOL DISCIPLINE";

H.B. No. 2847, HD 2, SD 2, CD 1, entitled: "RELATING TO SOLID WASTE MANAGEMENT";

H.B. No. 2506, HD 1, SD 1, CD 1, entitled: "RELATING TO FORECLOSURES";

H.B. No. 3528, HD 1, SD 2, CD 1, entitled: "RELATING TO EMPLOYMENT PRACTICES";

H.B. No. 2381, HD 1, SD 1, CD 1, entitled: "RELATING TO CRIME";

H.B. No. 2667, HD 1, SD 1, CD 1, entitled: "RELATING TO CRUELTY TO ANIMALS";

H.B. No. 2734, SD 1, CD 1, entitled: "RELATING TO SCHOOL BUSES";

H.B. No. 2846, HD 1, SD 1, CD 1, entitled: "RELATING TO CIGARETTE SALES TO MINORS";

H.B. No. 2932, SD 1, CD 1, entitled: "RELATING TO NUISANCE ABATEMENT";

H.B. No. 3010, SD 2, CD 1, entitled: "RELATING TO CONCURRENT JURISDICTION";

H.B. No. 3065, HD 2, SD 2, CD 1, entitled: "RELATING TO TAXATION";

H.B. No. 3553, SD 1, CD 1, entitled: "RELATING TO FORFEITURE";

H.B. No. 1868, HD 2, SD 2, CD 1, entitled: "RELATING TO THE HAWAII HURRICANE RELIEF FUND";

H.B. No. 2998, HD 2, SD 2, CD 1, entitled: "RELATING TO THE HAWAII MARITIME AUTHORITY";

H.B. No. 2366, HD 2, SD 2, CD 1, entitled: "RELATING TO TRANSPORTATION";

H.B. No. 2486, HD 3, SD 2, CD 1, entitled: "RELATING TO MARRIAGE AND FAMILY THERAPISTS";

H.B. No. 3028, HD 1, SD 2, CD 1, entitled: "RELATING TO LONG-TERM CARE";

H.B. No. 2786, HD 2, SD 2, CD 1, entitled: "RELATING TO MENTAL AND MEDICAL EXAMINATION OF CONVICTED DEFENDANTS";

H.B. No. 1966, HD 2, SD 2, CD 1, entitled: "RELATING TO ADULT RESIDENTIAL CARE HOMES";

H.B. No. 2675, HD 2, SD 1, CD 1, entitled: "RELATING TO CONSUMER PROTECTION";

H.B. No. 3437, HD 2, SD 2, CD 1, entitled: "RELATING TO FUNDING THE HAWAII HURRICANE FUND";

H.B. No. 3033, HD 2, SD 2, CD 1, entitled: "RELATING TO CORRECTIONS";

S.B. No. 2211, SD 2, HD 1, CD 1, entitled: "RELATING TO EDUCATION";

S.B. No. 3076, SD 1, HD 1, CD 1, entitled: "RELATING TO EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS";

S.B. No. 1089, SD 2, HD 2, CD 1, entitled: "RELATING TO ENDANGERED SPECIES".

Sen. Com. No. 744, returning H.C.R. No. 103, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE LEASE OF BOTH FAST AND SUBMERGED LANDS AT HALE O LONO HARBOR, ON THE ISLAND OF MOLOKAI FOR REDEVELOPMENT, MANAGEMENT, AND OPERATION BY A QUALIFIED PRIVATE ENTITY FOR RECREATIONAL PURPOSES," which was adopted by the Senate on May 5, 1998.

Sen. Com. No. 745, transmitting S.C.R. No. 216, entitled: "SENATE CONCURRENT RESOLUTION DECLARING THURSDAY, MAY 7, 1998, A RECESS DAY OF THE NINETEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1998."

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, S.C.R. No. 216 was adopted, with Representatives Hiraki and Herkes being excused.

At 9:19 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:20 o'clock p.m.

ORDER OF THE DAY

SUSPENSION OF RULES

Representative M. Oshiro moved that the rules be suspended for the purpose of considering bills on Final Reading on the basis of a modified consent calendar, seconded by Representative Marumoto.

At 9:21 o'clock p.m., Representative Thielen asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:22 o'clock p.m., the motion was put to vote by the Chair and carried, and the rules were suspended for the purpose of considering bills on Final Reading on the basis of a modified consent calendar, with Representatives Herkes, Hiraki, Nakasone and Takamine being excused.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 68 and H.B. No. 3403, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, Conf. Com. Rep. No. 68 and H.B. No. 3403, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PROPERTY," were recommitted to the Committee on Conference, with Representatives Herkes and Hiraki being excused.

Conf. Com. Rep. No. 119 and H.B. No. 3446, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 33 and S.B. No. 3248, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

At 9:24 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:26 o'clock p.m.

Conf. Com. Rep. No. 131 and S.B. No. 1089, SD 2, HD 2, CD 1:

Representative Okamura moved to separate S.B. No. 1089, SD 2, HD 2, CD 1, from Conference Committee Report No. 131, seconded by Representative Yoshinaga.

Representative Okamura rose and explained the motion, stating:

"Yesterday, during the Senate floor session, Senator Levin stated that there was an inaccuracy in Conference Committee Report No. 131 and offered a motion to separate the Senate Bill from the Conference Committee Report. The motion carried and Senate Bill No. 1089 then passed Final Reading in the Senate, so we are doing likewise this evening.

"Thank you."

Representative Yoshinaga rose and stated:

"As your Chair of the Energy and Environmental Protection Committee, Mr. Speaker, there was an error in the Conference Committee Report with respect to one provision that was not included in the bill. Therefore, Mr. Speaker, I would like my comments inserted in the Journal which would then insert a corrected discussion of the contents of said bill in the Journal," and the Chair "so ordered."

"Thank you, Mr. Speaker."

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise to speak in support of S.B. No. 1089, SD2, HD2, CD1.

"Last year, we passed landmark legislation to allow private landowners to join in the critical effort to save Hawaii's endangered, threatened, proposed, and candidate species, in H.B. 1292, HD1, SD1, CD1, which became Act 380, Sessions Laws of Hawaii 1997. The purpose of S.B. 1089 is to provide additional incentives for private landowners to recover and protect endangered and threatened species on their lands.

"This year, we are taking a major step forward in the effort to reforest Hawaii's marginal agricultural lands. We are also taking steps to create a future for Hawaii, renown as the world's premier learning center and destination for educational eco-tourism. Under S.B. 1089, landowners will be able to apply for special permits to create habitat preserves for native Hawaiian endangered, threatened, proposed, and candidate species, with accompanying education and arts centers, on marginal agricultural lands. In this way, new habitats for our Hawaiian species may be created as places of healing and renewal for the enjoyment of all.

"In addition, S.B. 1089 requires all State agencies to concurrently process and consolidate applications for habitat conservation plans and safe harbor agreements, to the extent possible, to minimize procedural burdens on applicants.

"Further, S.B. 1089 provides for the rights and obligations under safe harbor agreements to run with the land for the term of the respective agreements, so that landowners may enter into these agreements with confidence in the terms agreed upon.

"Finally, S.B. 1089 allows administrative enforcement of habitat conservation plans, safe harbor agreements, and incidental take licenses.

"In enabling private landowners to participate in the preservation of Hawaii's precious endangered species, we are giving the species access to critically needed lands and resources.

"Since fifty percent of Hawaii's endangered species habitat is on private lands, the amount of money needed to purchase that land far exceeds our budget limitations in these times of economic revitalization. Therefore, the State needs to create incentives for landowners to voluntarily participate in helping to save our endangered species. This bill will further provide additional incentives for private landowners to voluntarily help protect our endangered species.

"Originally, the Conference Committee Report No. 131 was filed with an error, so the Conference Committee Report was subsequently separated from the bill itself on the House floor. However, I would like to now incorporate the substance of the Conference Committee Report into my floor speech which reads as follows:

"The purpose of this bill is to provide additional incentives for private landowners to recover and protect threatened and endangered species on their lands.

"Your Committee finds that this bill is very similar to H.B. No. 1292, HD 1, SD 1, CD 1, which became Act 380, Session Laws of Hawaii 1997. Consequently, your

Committee has amended this bill by deleting its contents and inserting provisions:

- (1) Governing the issuance of incidental take licenses, the consolidated processing of habitat conservation plans and safe harbor agreements, the concurrent processing of state land use permit applications, the public's review and comment of proposed plans and agreements, the monitoring of plans, and the activities of the endangered species recovery committee;
- (2) Requiring the rights and obligations under any safe harbor agreement to run with the land for the term agreed to in the agreement and to be recorded by the Department of Land and Natural Resources in the Bureau of Conveyances or the Land Court, as may be appropriate;
- (3) Allowing administrative enforcement of rules adopted pursuant to the law relating to the conservation of aquatic life, wildlife, and land plants, in addition to habitat conservation plans, safe harbor agreements, and incidental take licenses;
- (4) Permitting land uses substantially involving or supporting educational ecotourism in the agricultural district by special permit, on lands with soils classified by the Land Study Bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U.

'Upon final approval in accordance with Chapter 195D, Hawaii Revised Statutes, your Committee intends that habitat conservation plans, safe harbor agreements, and incidental take licenses be deemed "contracts" within the meaning of Article I, Section 10 of the United States Constitution.'

The motion was put to vote by the Chair and carried, and Conference Committee Report No. 131 was received by the Clerk and was placed on file.

S.B. No. 1089, SD 2, HD 2, CD 1:

Representative Okamura moved that S.B. No. 1089, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative M. Oshiro rose in support of the bill, stating:

"I believe this is a bill that will correct some of the problems we have in enforcing our laws regarding our landowners. At the same time, Mr. Speaker, it will protect our endangered species and give landlords incentives to make productive use of their lands.

"Thank you, Mr. Speaker."

Representative Thielen rose and stated:

"Because the Committee Report has been removed from the bill and will not be passed by this body, I can stand in support of this bill. And I will ask that the remainder of my comments be entered into the Journal," and the Chair "so ordered."

Representative Thielen's remarks are as follows:

"I support S.B. 1089, SD 2, HD 2, CD 1, because the Conference Committee Report was removed from the bill by the Senate and the House and not adopted.

"The House Chair of Energy and Environmental Protection had inserted a paragraph trying to claim conservation plans, safe harbor agreements and incidental take licenses were 'contracts' within the meaning of Article I, Section 10 of the United States Constitution. That proposed provision was NOT agreed to by the Conference Committee conferees who specifically rejected such language.

"Safe harbor agreements, conservation plans and incidental take licenses will be subject to State law and changes therein."

The motion was put to vote by the Chair and carried, and S.B. No. 1089, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERED SPECIES," passed Final Reading by a vote of 47 ayes, with Representatives Herkes, Hiraki, Stegmaier and Takamine being excused.

The Chair directed the Clerk to note that S.B. No. 1089 had passed Final Reading at 9:30 o'clock p.m.

At 9:31 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:32 o'clock p.m.

FINAL READING

By unanimous consent, the following bills were taken from the Clerk's desk and the following actions taken:

H.B. No. 1049, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 1049, HD 1, and H.B. No. 1049, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PAWNBROKERS," passed Final Reading by a vote of 48 ayes, with Representatives Herkes, Hiraki and Takamine being excused.

H.B. No. 2331, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2331, HD 1, and H.B. No. 2331, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Final Reading by a vote of 48 ayes, with Representatives Herkes, Hiraki and Takamine being excused.

H.B. No. 2537, HD 1, SD 1:

Representative Okamura moved that the House agree to the amendments proposed by the Senate to H.B. No. 2537, HD 1, and H.B. No. 2537, HD 1, SD 1, pass Final Reading, seconded by Representative Kawanakoa.

Representative Whalen rose to speak against the bill, stating:

"I rise in opposition because once again what we have here is the Legislature interfering with business. Insurance is based on the premise that you take certain risks and you plan them out and someone pays a premium based on that risk. If you smoke, you pay a little bit higher. If you get drunk all the time and crash up your car, you're going to pay higher insurance. If you have certain problems and choices you make endangers your health, you pay a higher premium.

"The bill is good in everything it says except in the section that talks about 'unfair discriminatory acts.' And it says: 'An insurance company is prohibited from factoring or even asking individual questions of someone's propensity to be involved as a victim of domestic violence.'

"Mr. Speaker, the problem I have with that is that what we're doing is requiring the rest of society -- everyone else who buys insurance -- to subsidize a situation that someone is in. And although some of you might get all excited and your hearts are going pitter-patter, I don't think there's really anyone here in the House that's been as familiar as I've been with my experience as a prosecutor with domestic violence, the circle of violence, and the different theories and the different situations that are explained why particularly women stay in a situation like that. And I'm not putting it down. I'm not saying they're there, because they're totally free choice. But as a business person -- I don't sell insurance -- but as our insurance industry goes about doing their business, in order to set accurate premium rates for people, they need to be able to factor in those elements that increase a person's risk. Otherwise, again you have someone paying a premium that does not accurately reflect the risk to either medical or death, or whatever kind of harm you're insuring against. And for us to legislate this, it feels good, it gets everyone excited.

"But once again, what we have is a socialist state determining that what we want is for the rest of society to subsidize a situation that we don't approve of certainly. And for those reasons, Mr. Speaker, I will be voting 'no'.

"Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in favor of the bill, stating:

"I believe that this bill cannot be compared to a person who drinks alcohol and operates a motor vehicle. I believe the comparison to someone who smokes cigarettes is not appropriate. And I think, Mr. Speaker, the comments of the prior speaker, regarding some experience as a prosecutor having domestic violence cases, perhaps it's probably a misstatement of some of the members who do sit in these chambers.

"Mr. Speaker, prior to coming here, I had the opportunity to serve as a deputy prosecutor under Mr. Keith Kaneshiro, and I had the distinguishable assignment of being on the Family Court calendar for both abused household member cases and also for the trial-by-jury of abused household cases. And let me tell you, Mr. Speaker, this is nothing that someone does voluntarily. This is not a choice that a person makes, and I think this is the right thing to do. This has nothing to do with the socialist system of writing support for these victims in these situations.

"I would just like to say that this is the right way to go, and irrespective of the cost it is something that a just and compassionate and wise society would choose to share among its members.

"Thank you, Mr. Speaker."

Representative Thielen rose and stated:

"I had the privilege of serving as one of the Co-Chairs of the bipartisan House Women's Caucus. I want to stand in strong support of this bill, and in strong opposition to the comments made by Representative Whalen. I'm sorry, it just disturbed me so much that I

guess I even blanked out his name. I think they showed a great deal of ignorance and intolerance. These. . .

The Chair interrupted and said:

"You're out of order, Representative. You should not name a Representative by the name. I think saying 'the Representative from Kona' would have been sufficient. Please proceed."

Representative Thielen continued, saying:

"I blanked out his name. The Representative from Kona, Mr. Speaker, mentioned that these women who are victims of domestic abuse have a propensity to be a victim. I think that is frankly a very wrong statement. It ignores what happens to women who become victims of domestic abuse, and it shows a great deal of intolerance and lack of understanding of the situation.

"I think what we need, Mr. Speaker, is insurance coverage for women, regardless of whether they have in the past been a victim of domestic abuse, and that is a factor that the insurance industry should not be able to factor in and use as a reason to either raise premiums or not permit those women to be covered. I am so appalled at the statement that I am not even able to articulate my opposition to his opposition to this very worthwhile bill.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, in 1995 five states saw fit to pass similar legislation. If a victim of domestic violence is afraid of losing insurance coverage, whether it be health insurance, life insurance, or home insurance, and this prevents her from going to get help in a domestic violence situation, it's a very sad situation. This bill will prevent women in our State from losing their insurance because they go to get help in this sort of a situation. So I think we can be very proud to have passed a bill that prevents insurance discrimination against victims of domestic violence. And remember, this applies to both men and women.

"Thank you very much."

Representative Whalen, in response, stated:

"Mr. Speaker, in deference to my fellow Republican colleague in her wide-ranging comments, this is what I was talking about, Mr. Speaker. It's a very emotional issue and people get wound up. At no point did I say that victims have a propensity to be victims, nor did I say that people who are victims of domestic violence should not have medical coverage. That's exactly the things about the bill that. . . well, they should have coverages.

"What I said I supported. . . I suppose if some of my colleagues would listen better to other speeches, they wouldn't get so excited. What I did say was that insurance companies, if they have well-grounded actuarial reasons to factor in or someone has a higher risk for whatever reason, and this goes to the Majority Floor Leader, if they have these reasons that they can factor in that prove to be so, not because a woman is there by choice. I didn't say it's the same situation. What I said is: the insurance companies, if they have valid reasons, then they should be able to factor it in to setting the premium prices.

"I said I supported the bill in its other areas. However, my concern and my opposition arise from the fact that once again we're telling businesses that although they have proven grounds to set premiums at a price and

can back it up with statistics, numbers, et cetera, they can't use it and force the rest of society to pick up the difference in the premiums, Mr. Speaker. So, hopefully, the second time around, those of my colleagues who are excited will listen carefully to what I said, and those are the grounds for my opposition.

"Thank you."

Representative Pendleton rose in support of the bill, stating:

"Mr. Speaker, I'm an attorney but I have never practiced criminal law, and my knowledge of this area goes back prior to my legal practice, back when I was a youth pastor. The senior pastor would assign the younger people to visit hospitals, and one of my tasks was to visit hospitals on a number of occasions. I had the very challenging task of visiting a hospital where a church member was severely injured, and obviously she was involved in domestic violence but insisted that she had fallen downstairs where the other things had happened. And I've seen firsthand how difficult it is for women in these kinds of situations.

"I think while reasonable minds can disagree as to the means to address these kinds of problems, I think, in my own mind, that this is a reasonable, appropriate and necessary piece of legislation to ensure that women are not afraid to seek help, to seek therapy, to seek intervention, and to report the kinds of things that happen that are absolutely inappropriate, that our society rightly condemns domestic violence is only recently coming to light. We know that it's gone on for probably centuries, but only recently has society recognized that we need to afford women the protection of the law. And I know that this law applies without regard to gender, but let's be real that we are primarily protecting women in the situation, so I am proud to be able to support this measure."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2537, HD 1, and H.B. No. 2537, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 47 ayes to 1 no, with Representative Whalen voting no, and Representatives Herkes, Hiraki and Takamine being excused.

H.B. No. 2672, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2672, HD 1, and H.B. No. 2672, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Final Reading by a vote of 48 ayes, with Representatives Herkes, Hiraki and Takamine being excused.

H.B. No. 2762, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2762, HD 1, and H.B. No. 2762, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO POOLED INSURANCE," passed Final Reading by a vote of 48 ayes, with Representatives Herkes, Hiraki and Takamine being excused.

H.B. No. 3281, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B.

No. 3281, HD 1, and H.B. No. 3281, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Final Reading by a vote of 48 ayes, with Representatives Herkes, Hiraki and Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 1049, 2331, 2537, 2672, 2762 and 3281 had passed Final Reading at 9:42 o'clock p.m.

ANNOUNCEMENT

Representative M. Oshiro: "We will be in recess tomorrow and will be coming back here Friday, May 8th."

Representative M. Oshiro then moved to keep the Journal open until 12:00 o'clock midnight this legislative day for the purpose of receiving Conference Committee Reports, seconded by Representative Marumoto and carried, with Representatives Herkes, Hiraki, Takamine and Tom being excused.

At 9:45 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Conference Committee Reports.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:00 o'clock p.m. on Friday, May 8, 1998.

SIXTY-SECOND DAY

Friday, May 8, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 9:24 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Nestor R. Garcia, after which the Roll was called showing all members present with the exception of Representatives Chang, Pendleton, Takamine and Takumi, who were excused.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 746 through 748) were received and announced by the Clerk and were placed on file.

Sen. Com. No. 746, informing the House that the Senate has reconsidered its action taken on May 5, 1998, in passing House Bill No. 3403, HD 2, SD 1, CD 1, on Final Reading and that said bill has been recommitted to Conference Committee on May 6, 1998.

Sen. Com. No. 747, informing the House that the Senate has reconsidered its action of April 16, 1998, in disagreeing to the amendments proposed by the House to the following Senate Bill and has moved to agree to the amendments. The Senate further informed the House that said bill passed Final Reading on May 6, 1998:

S.B. No. 2349, SD 1, HD 2, entitled: "RELATING TO ENVIRONMENTAL HEALTH".

Sen. Com. No. 748, informing the House that the Senate has agreed to the amendments proposed by the House to the following Senate Concurrent Resolutions and that said resolutions were Finally adopted in the Senate on May 6, 1998: S.C.R. Nos. 25, HD 1; 90, SD 1, HD 1; and 154, HD 1.

At 9:30 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:47 o'clock p.m.

ORDER OF THE DAY

UNFINISHED BUSINESS

Conf. Com. Rep. No. 119 and H.B. No. 3446, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 33 and S.B. No. 3248, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

CONFERENCE COMMITTEE REPORTS

Representatives Menor and Say, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2633, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 136)

recommending that S.B. No. 2633, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 136 and S.B. No. 2633, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," was deferred for a period of 48 hours.

Representatives Stegmaier and Say, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2680, HD 2, SD 1, CD 1, presented a report (Conf. Com. Rep. No. 137) recommending that H.B. No. 2680, HD 2, SD 1, CD 1, as amended in CD 2, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 137 and H.B. No. 2680, HD 2, SD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO STUDENT-CENTERED SCHOOLS," was deferred for a period of 48 hours.

Representatives Jones and Say, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2990, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 138) recommending that H.B. No. 2990, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 138 and H.B. No. 2990, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," was deferred for a period of 48 hours.

Representatives Herkes and Chang, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 3443, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 139) recommending that H.B. No. 3443, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 139 and H.B. No. 3443, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," was deferred for a period of 48 hours.

Representatives Morihara and Say, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2560, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 140) recommending that H.B. No. 2560, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 140 and H.B. No. 2560, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was deferred for a period of 48 hours.

Representatives Yoshinaga and Kanoho, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 379, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 141) recommending that S.B. No. 379, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 141 and S.B. No. 379, SD 2, HD 2, CD 1,

entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," was deferred for a period of 48 hours.

Representatives Stegmaier and Say, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 760, HD 2, presented a report (Conf. Com. Rep. No. 142) recommending that S.B. No. 760, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 142 and S.B. No. 760, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOLS-WITHIN-SCHOOLS," was deferred for a period of 48 hours.

Representatives Menor and Say, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2204, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 143) recommending that S.B. No. 2204, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 143 and S.B. No. 2204, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," was deferred for a period of 48 hours.

Representatives Yoshinaga and Say, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2350, SD 1, HD 2, presented a report (Conf. Com. Rep. No. 144) recommending that S.B. No. 2350, SD 1, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 144 and S.B. No. 2350, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," was deferred for a period of 48 hours.

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the rules were suspended for the purpose of considering a bill on Final Reading on the basis of a modified consent calendar. (Representatives Chang, Pendleton, Takai, Takamine and Takumi were excused.)

SUSPENSION OF RULES

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the rules were suspended for the purpose of reconsidering action previously taken. (Representatives Chang, Pendleton, Takamine and Takumi were excused.)

RECONSIDERATION OF ACTION TAKEN

Representative Okamura moved that the House reconsider its action taken on April 16, 1998, in disagreeing to the amendments proposed by the Senate to H.B. No. 2362, HD 1 (SD 1), seconded by Representative Kawanakoa and carried. (Representatives Chang, Pendleton, Takamine and Takumi were excused.)

At 9:50 o'clock p.m., Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:51 o'clock p.m.

Representative Okamura moved to agree to the amendments made by the Senate to the aforementioned bill, seconded by Representative Kawanakoa.

Representative Case rose to speak in support of the motion, stating:

"Mr. Speaker, we've talked about this at length. I simply wish to thank you and the acting Chair of the Judiciary Committee for your actions on this matter and ask that I be allowed to insert additional remarks in the Journal," and the Chair "so ordered."

Representative Case's additional remarks are as follows:

"Mr. Speaker, I rise in support of the motion to agree to the amendments made by the Senate to the pending bill relating to compensation of charitable trustees.

"Mr. Speaker, this measure has been exhaustively discussed and debated already. However, I do believe it is important to review the basics so that the context in which this proposal is being adopted is understood and the legislature's intent is clear.

"At the most basic level, charitable trusts enjoy federal and state tax exemptions because they provide benefits and services that are public in nature and would otherwise be provided by government. As a result of this quid pro quo, these trusts are subject to a higher level of government scrutiny and supervision than other private entities.

"In the legal and general historical precedence of our state and nation, there is a long tradition of trustees of charitable trusts serving without or with purely nominal compensation. For example, the will of Princess Bernice Pauahi Bishop, through which the charitable trust of the Kamehameha Schools/Bishop Estate was created, was silent on issue of compensation of trustees, and there is every reason to expect that Pauahi intended a level of compensation commensurate with this tradition.

"Early in this century, some charitable trustees began receiving reasonable compensation along the lines of trustees of non-charitable trusts or executors or administrators of decedents' estates. The statute we are radically altering today, H.R.S. 607-20, was first enacted in 1943 as an attempt to codify the developing practice.

"That statute provided for charitable trustee commissions to be paid according to a percentage schedule on 'all monies received in the nature of revenue or income of the estate...' The actual percentages were last amended in 1959, and the statute has been interpreted as applying those percentages to gross revenue or income.

"The result in the case of KS/BE most graphically demonstrates the compelling need for legislative intervention and guidance. In fiscal year 1994, for example, KS/BE paid its five trustees \$4,576,192, an amount which I am informed would have financed annual tuition for almost 300 students at KS/BE's day school.

"More importantly, under the statutory scheme and given the gross (not net) income of the trust that year, the trustees were entitled to compensation of double that, or around \$2 million each. And there is every reason to

believe that a court, because the legislature had established the schedule, would have presumed that level of compensation was reasonable notwithstanding common law and historical precedent on charitable trustee compensation. See, for example, the Supreme Court of Hawaii's opinion in Re Estate of Bishop, 53 Hawaii 604 (1972), in which the court stated that the 'question of whether the formula used in computing trustees' commissions should be reexamined, however, is a legislative problem, and we are unable to reduce the amounts of commissions awarded in the absence of legislative action.

"Clearly compensation at the levels discussed above for charitable trustees is excessive. It is difficult to conclude that prior legislatures ever intended that the percentage schedule be applied to gross receipts at the levels now accruing to, for example, KS/BE. It is difficult to conclude that settlors, most particularly Pauahi, could ever have intended that monies of this magnitude be diverted from beneficiaries. And it is not acceptable that the legislative branch, the executive branch, most particularly the Attorney General acting as *parens patriae*, the judicial branch, most particularly the probate court, and, most importantly, the actual beneficiaries, are essentially powerless to act.

"This measure, accordingly, is remedial in nature. Its overall purpose is to limit the compensation received by trustees of charitable trusts to that which is 'reasonable under the circumstances.' In so doing it also intends to prevent the diversion of excessive revenues of charitable trusts, including KS/BE, from beneficiaries to trustees.

"The legislature understands and anticipates that what is 'reasonable under the circumstances' is ultimately to be determined by the probate court exercising existing probate supervisory powers. The relevant factors may include but not necessarily be limited to: historical precedents on the role and compensation of charitable trustees generally; specific settlors intentions where discernable; comparable compensation paid to comparable charitable trusts for comparable responsibilities both locally and nationally; management and policymaking responsibilities of charitable trustees evaluated against commonly accepted views of trustees responsibilities; overall performance of the subject trust; and contributions of the trustees to trust performance.

"The legislature further understands and anticipates that the probate court will retain suitable independent experts to advise the court on proper evaluation of the above factors. I am informed and agree that the expenses of this consultation as well as of the Attorney General acting as *parens patriae* are to be borne by the subject trust.

"Concerns have been expressed that conversion to a reasonable compensation standard will lead to protracted litigation. First, the cost of resolving any initial disagreement is substantially outweighed by the long-term benefits to our charitable trusts and their beneficiaries. Second, basic standards should be established during initial probate court considerations which should limit later disagreements. Third, the extent of disagreement depends greatly on whether charitable trustees take responsible positions in their petitions for approval to the probate court.

"Mr. Speaker, thank you again for your actions in resolving this issue this year. I have no doubt that immediate benefits will accrue as a result to our charitable trusts, their beneficiaries and the general public."

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

Representative Yamane's remarks are as follows:

"I still believe that the House's position, calling for a task force to study charitable trusts trustee compensation, is the better process to follow than the immediate change to the 55 year old statute that the Senate wants.

"My concern to be fair, objective, and reasonable to the trustees, beneficiaries, and the public led me to take this more prudent and cautious approach.

"The task force approach was to have an independent group look at this statute as it affects at least 10 charitable trusts. The collaborative synergy of a group will provide a fairer decision than one person, such as a probate judge. Maybe that is why the Queen's will calls for a group of justices choosing the trustees in the case of Bishop Estate.

"The term reasonable seems to be synonymous with justifiable, but then how do we justify an arbitrary cap for all charitable trusts that some people are calling for?

"The biggest concern that was mentioned at our House hearing was the potential of litigation arising out of changing the statute to 'reasonable.'

"Since the members and public wanted the Legislature to address this issue, the House offered to go with the Senate SD 1, which passed the Senate 25-0, if they would have an independent study group look at compensation criteria for charitable trusts. The Senate refused the study group.

"The House agreed to accept the Senate SD1.

"I hope the Senate's draft will accomplish what they say. I still have concerns about the potential litigation the 'reasonable' standard could produce and if this language will address the concerns the public has about certain trustee's compensation.

"I still feel that the original House position of a task force is the more prudent solution, but I will support the Senate draft position and hope that the probate court will do their own independent study."

Representative Goodenow then rose in support of the motion with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Goodenow's remarks are as follows:

"The current fee schedule and the beginning of statutory involvement in Bishop Estate began in 1943. The Senate committee report establishing the law reads, 'The bill as introduced was designed to limit the commissions of trustees...to a maximum of \$10,000 a year regardless of how many trustees participate in the administrations of the trust.' George Cooper and Gaven Daws state in their book Land and Power in Hawaii, 'Several part-Hawaiian democratic senators, upset with the operation of the Bishop Estate, attempted to slash fees drastically, and did succeed in reducing them somewhat.'

"The issue was not only that compensation was too high, but also that the operation of Bishop Estate was not approved of by the political leaders of the day. In 1959, the Legislature again involved itself in Estate trustee compensation by doubling what trustees were then receiving. There are claims that this increase was directly linked to a Heeia development project on Estate lands.

While the facts seem to indicate possible conflict (the fee bill was introduced on March 12, a development proposal from the Senate Judiciary Chair to the trustees was dated April 14th, the bill passed the Legislature on May 2nd, and the development project was rewarded to the Senator's company on May 5th), Cooper and Daws conclude, 'As with so many stories of this kind a final resolution is elusive. Who knows what really happened?' This is just an example, however, of why this messy link between the Legislature and the Bishop Estate needs to be severed.

"Before the Legislature involved itself in the question of trustee compensation in 1943 and then again in 1959, trust affairs were exclusively under the review of the courts. One reason why I will now support this measure is that it does intend to reestablish this responsibility by abolishing the formula system established in 1943. While some critics argue that this will cause numerous and lengthy lawsuits, I agree with many of the proponents of this bill that an actual cap (for example an amount equal to the Chief Justice's salary) would have created a presumption that anything up to the cap was reasonable.

"This presumption could also create substantial problems with respect to other charitable trusts. By leaving it up to the probate court, the new law would be very similar to simply repealing the 1943 statute entirely, which is good. But why not simply repeal the law, so only the court would then review the terms of the will, why do we have to explicitly state that the Attorney General has the authority to question compensation amounts? Repeal would sever the dangerous link that exists between the Legislature and the Estate. Even if the current proposal has the effect of limiting compensation, there would be nothing to stop a future Legislature from altering the statute, for example by defining the term 'reasonable'.

"Some have argued that because the Estate enjoys tax-free status, and because 'the public has an interest in how that tax-free income is being spent,' the Legislature should regulate trustee compensation. I am really surprised at that argument. Should we tell the Roman Catholic Church how much they should pay their bishop? Should we set hospital director salaries? We are supposed to set general policy, not just pick and choose whom we should regulate or tax.

"The Representative from Manoa also sent us a memo addressing some of the concerns and arguments from our earlier debate. From his memo it is clear that we concur on many points. My good colleague from Kona argued that 'reasonable compensation' is already the legal standard. I agree with him and I agree with the Attorney General that the current statute is a legislative endorsement that the statutory schedule is reasonable. This is why we need repeal.

"I am in full agreement that this effort has primarily risen from public sentiment against high trustee compensation. We should be diligent, however, in remembering that other trusts are affected by this legislation. We must also be diligent whenever we single out one particular entity to be the focus of legislation. I have yet to hear a good argument as to why charitable trusts, as opposed to other trusts or charities, should be the object of special laws or rules.

"The Attorney General argued that repeal was inadequate because repeal would 'create a void in the law where legislative guidance has been provided for over 50 years. Prior to enactment of the schedule of percentage commissions, we understand that charitable trustees, including Bishop Estate trustees, received little or no compensation.' First, the current law was enacted to

lower compensation, not increase it. Second, while it may be true that repeal may cause lawsuits, the Attorney General has also stated that this measure, as well as the establishment of a cap, would also cause lawsuits. Indeed, I now well understand the House position of a study. This issue is very complex and there are possible lawsuits anyway one looks at it. Again, however, why not repeal? Legislative intent can easily be stated in the committee report. Indeed, how can legislative intent not be clear: we do not feel that any statutory regulation is warranted, thus we do not have a law. The courts have the authority and are the proper power to review trustee compensation. Let us let them do their job.

"In conclusion, it seems best that the Legislature take itself out of the issue of Bishop Estate trustee compensation. The compensation problem was started when the Legislature imposed an artificial compensation formula. There is no need for involvement as current common law regarding trust oversight is sufficient and works in all other states. But this is at least something, and it moves us in the right direction. Thank you"

Representative M. Oshiro then rose in support of the motion with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative M. Oshiro's remarks are as follows:

"Mr. Speaker, I rise in support of this measure with grave reservations. My reservations are twofold and concern the manner in which this bill was brought to the floor and the substance of this bill. As I have previously expressed, both publicly and privately, and already adopted into the House Journal (dated March 6, 1998), I have concerns over the expediency in which the Legislature is passing this bill and whether this bill will have the desired effect on charitable trustees' compensation.

"There is little doubt that the target of this measure is a certain well-known charitable trust that has had the distinction of receiving an inordinate amount of press and negative publicity over the years. In the halls and offices of our State Capitol, it is referred to as the 'Bishop Estate bill.' The current public debate over questionable actions by its Board of Trustees and employees has generated a tremendous amount of emotion, accusation, alarm, and cynicism. In the process, reputations are being smeared, evil motives are being ascribed, and hysteria smothers reason.

"The public opinion appears to be that the people desire the Bishop Estate trustees' salaries to be decreased due to their belief that the trust is not being managed properly and that compensation for the trustees is grossly unreasonable. While there are people who purport that the 'reasonable compensation' standard will reduce the wrongs in the current law, this bill may not have the desired effect of reducing the trustees' compensation. Even groups such as Na Pua A Keali'i Pauahi, Inc. stated through its attorney Beadie Dawson that it desired a cap on the 'reasonable standard' for compensation for trustees of charitable trusts. What this House and the people of Hawaii should know is that the 'reasonable compensation' standard in this bill may not decrease the trustees' salaries but may actually increase it or may allow it to remain the same. I believe the proponents of this bill failed to inform us whether this standard would definitely lead to the decrease of the trustees' salaries. In fact, one lead Senator, involved in the final Conference Committee discussions on this bill and a proponent of this version of the bill, stated that decreasing the salaries of the trustees was not the intent of this measure.

"While the focus of this bill was to decrease the salaries of the Bishop Estate trustees, members must keep in mind that this bill has near universal application to all charitable trusts, large and small alike. According to the Department of the Attorney General, these include not only Bernice Pauahi Bishop Estate Trust, but others such as: 1) Liliuokalani Trust: 1994 information shows net worth of \$300,000,000 (fair market value), and annual income of \$21,000,000; 2) McInerney Foundation: 1994 information shows net worth of \$25,000,000 (cost value), and annual income of \$2,300,000; 3) G. Wilcox Trust: 1992 information shows net worth of \$15,500,000 (fair market value) and \$13,500,000 (cost value), and annual income of \$780,000; 4) W.C. Lunalilo Trust: 1996 information shows net worth of \$8,000,000 (fair market value), and annual income of \$1,200,000; 5) Charles Bishop Trust: 1996 information shows net worth of \$6,500,000 (fair market value) and \$4,800,000 (cost value), and annual income of \$175,000; 6) G. Straub Trust: 1995 information shows net worth of \$5,800,000 (fair market value) and \$4,600,000 (cost value), and annual income of \$300,000; 7) Charles Hemmenway Scholarship Trust: 1997 information shows net worth of \$4,900,000 (fair market value), and annual income of \$185,000; 8) Lucy Henriques Trust: 1994 information shows net worth of \$2,700,000 (fair market value), and annual income of \$85,000; 9) Kaiulani Trust: 1994 information shows net worth of \$2,000,000 (fair market value) and \$1,900,000 (cost value), and annual income of \$90,000; 10) George and Ida Castle Trust: 1994 information shows net worth of \$2,600,000 (fair market value) and \$2,000,000 (cost value), and annual income of \$530,000; 11) Walter McBryde Trust: 1994 information shows net worth of \$1,400,000 (fair market value), and annual income of \$55,000; 12) Teresa Hughes Trust: 1981 information shows net worth of \$1,375,000 (fair market value), and annual income of \$148,000; 13) George Kahelekukona Trust: 1995 information shows net worth of \$1,300,000 (fair market value), and an annual income of \$5,000; 14) Bernice Irwin Trust: 1996 information shows net worth of \$560,000 (fair market value), and an annual net worth of \$28,000; 15) Ida Pope Trust: 1985 information shows net worth of \$460,000 (fair market value) and \$420,000 (cost value), and annual income of \$29,000; 16) Caecile Alexander Trust: 1987 information shows net worth of \$385,000 (fair market value) and \$360,000 (cost value), and annual income of \$24,000; 17) Arthur Keller Trust: 1989 information shows net worth of \$300,000 (fair market value), and annual income of \$18,000; 18) Dorothy Anderson Trust: 1991 information shows net worth of \$250,000 (cost value), and annual income of \$31,000; and 19) Dora Isenberg Trust: 1984 information shows net worth of \$250,000 (cost value), and annual income of \$18,000. Do the proponents and my colleagues know that this bill affects these trusts too?

"This emotional debate has engendered a political climate whereby passing any bill concerning this controversial issue would be the popular thing to do, regardless of any lack of deliberation, analysis, and fact finding necessitated by the legislative process. However, while politics may dictate that the easiest way out of the jam is simply to say or do what's popular, that does not necessarily mean that what is being said or done is right.

"Mr. Speaker, I am somewhat disappointed and hurt that leading proponents of this bill chose not to raise the issue in our Democratic caucus held on Tuesday, May 5, 1998, wherein we might have had an open and frank discussion on the issue and have avoided the public spectacle and mitigated the media's sensationalism of this very important issue. Unfortunately, the media has ascribed all kinds of motivations to our earlier vote on first crossover, dismissing the merits of opposing views. What was lost in the media's coverage of our vote was

any analysis of the substantive basis for the disagreements.

"I only learned about the proponents' intentions at around 7:30 p.m. Tuesday evening, after our Majority Caucus, hardly enough time to comprehend the exigency of passing this particular bill. Mr. Speaker, do the members of our Majority Caucus realize that unlike all other final reading bills, my staff and I did not have the opportunity to 'digest' or summarize HB 2362 HD1 SD1. As such, we did not have the opportunity to review the committee reports and written testimony. Over the past two years as your Majority Floor Leader, my staff and I have acted as the 'final check' by reviewing the bills' substance, written testimony, and the Committee Report recommendations in order to brief the Majority Caucus and prompt further caucus discussion. As my staff and I were not provided with advance notice, we were not able to review this bill and digest it for the House Majority Caucus. Also, the House Majority Caucus was unable to have a discussion about its merits.

"Mr. Speaker, a few evenings ago, Wednesday, May 6, 1998, a member of the body and prominent advocate for this bill, using the procedure of 'suspending the House rules for purposes of reconsidering our previous decision' (in other words, agreeing to a House bill with a Senate draft) in order to revive debate on this issue, severely criticized this body and those who did not follow his lead. He even went as far as to say that he was embarrassed of his own classmates, caucus, and fellow Democrats. As a classmate of that speaker, I left the floor very disturbed. Was the speaker inferring that I had forgotten or laid aside the aspirations and standards we both espoused when we were first elected in 1994? I hoped not, for I considered him to be a friend as well as a respected colleague. But certainly, when you have 25 members, nearly half from your own caucus demanding passage of a bill, you are compelled to take notice that something important must be addressed. Perhaps the majority of the House members, myself included, were incorrect or ill-advised in our previous vote, weeks earlier on March 6, 1998 (3rd reading of HB 2362 HD1). Perhaps, I thought, I had erred in my previous vote against the proposed floor amendment. And, yes, perhaps the Senate draft addressed the public's demand to reduce the compensation of Bishop Estate trustees. And so, Mr. Speaker, my office began the bill digesting process, and my staff took great care to review all commentary submitted regarding this bill. We did so in our normal course, without fanfare, with objectivity and dispassionately.

"I learned that Senate Bill 3037 SD1, as originally drafted (SB 3037), sought to enact provisions for 'reasonable compensation' capped at the salary level of the Chief Justice of the Supreme Court. However, public input was solicited and taken on a proposed Senate Draft of the bill. Apparently, the Senate made available a draft of its proposed amendment to SB 3037 to the public prior to the Senate's Committees on Judiciary and Ways and Means hearing held on March 5, 1998. This draft became SB 3037 SD1. As the contents of HB 2362 HD1 SD1 and SB 3037 SD1 were the same, I sought out the written testimony on SB 3037 SD1 as it was heard by the Senate prior to HB 2362. The Senate did not have a public hearing on HB 2362 HD1.

"After researching the Senate bill, I discovered that testimony submitted by lead critics of Bishop Estate's compensation of their trustees indicated that they did not fully support the Senate draft which became SB 3037 SD1. The following are portions of some of the written testimony submitted for consideration to the Senate Committees on Ways and Means and Judiciary who heard

the measure on March 5, 1998; two of which were submitted later; and one on HB 2362 HD1 SD1.

"First, in written testimony dated March 5, 1998, in support of SB 3037 SD1, Gladys Brandt, Walter M. Heen, Samuel P. King, and Randall Roth, authors of 'Broken Trust' stated: 'We recommend, however, that S.B. 3037 S.D.1, be amended to provide some guidance to the probate court in its determination of the reasonableness of trustee's compensation. We recommend that a subsection (c) be added to section 2 reading substantially as follows: "In determining the reasonableness of the compensation of the trustees, the court shall be guided by the regulations established by the Internal Revenue Service to determine reasonable compensation under the federal intermediate sanctions law; provided, however, that should there be no such regulations established prior to such time as it may be necessary for a probate court to determine such reasonableness, the probate court shall be guided by the legislative history of this act, the stated purpose of this act as expressed in section 1, and the case law relating to reasonable compensation."' (Emphasis added). As they wanted language added to the draft to provide some guidance to the probate court when determining what was 'reasonable', it cannot be said that they fully supported without reservations, the contents of SB 3037 SD1 or HB 2362 HD1 SD1.

"Similarly, in written testimony dated March 5, 1998, in support of SB 3037 SD1, Tommy D. Chong, a 13 year graduate of the Kamehameha Schools, Class of 1971; affiliated with the Association of Hawaiian Civic Clubs; the Hawaiian Civic Club of Honolulu; the King Kamehameha Celebration Commission; the Kamehameha Schools Alumni Association-Oahu Region, and Na Pua A Keali'i Pauahi, Inc. states: 'It would help greatly if you would define the phrase "reasonable under the circumstances". Perhaps it would be helpful for all parties concerned since it is the lack of "reason" that has brought us here today.' (Emphasis added).

"Likewise, in written testimony dated March 5, 1998, in support of SB 3037 SD1, Antoinette Lee, President of Na Pua A Keali'i Pauahi, a Class of 1959 Kamehameha Schools graduate, and a mother of 3 alumnus of the school, who states that she represents a group of alumnus, parents, students, and friends totaling 2,700 strong. She states: 'I come before you this afternoon to testify in support of Senate Bill 3037, SD1 with hope that you will make some moderate changes to it.' (Emphasis added). She further states: 'We would like you to define "reasonable compensation" more clearly.' (Emphasis added).

"Finally, in written testimony dated March 5, 1998, on SB 3037 SD1, the Department of the Attorney General states that the Department 'strongly oppose[s] the amended language because it exacerbates the problem of excessive compensation.' (Emphasis added). The Attorney General further states: 'The proposed language deletes the annual compensation payable to a trustee and instead simply refers to an undefined, uncertain reasonableness standard.' (Emphasis added). She further states: 'There are a number of problems that perpetuate excessive compensation under current law. Simply changing the fee schedule to a nebulous "reasonableness" standard, without so much as including a cap on fees, exacerbates the problem. It lends itself to the inevitable result that trustees will be inclined to spend more of the estate assets to justify excessive compensation.' (Emphasis added).

"Furthermore, in a memorandum dated April 19, 1998, the authors of 'Broken Trust' summarize their position as follows: 'We believe that compensation of trustees of

charitable trusts should be set at amounts that are "reasonable under the circumstances". However, we recognize the concern of others that the absence of a specific cap might set the stage for costly litigation each year to determine what is reasonable. In an attempt to address this concern, we suggest the following: "Absent a contrary provision in the governing document, trustees of charitable trusts will set the level of their own compensation. However, compensation paid to any particular trustee must always be reasonable under the circumstances, and compensation higher than the salary of the Chief Justice of the Hawaii Supreme Court must be approved by the probate court, using this same standard. In situations where compensation is set by the probate court, the trustees will be able to participate in any related hearing, or even appeal the court's order, but only at their own expense." (Emphasis added). Again the authors of 'Broken Trust' expressed their desire that the language of SB 3037 SD1 be amended.

"And, in a letter dated May 7, 1998, addressing a question from the Representative from Manoa whether it is necessary to amend the charitable trustee compensation statute, since the request of reasonable compensation is already provided by common law, the Attorney General again expressed her disapproval of the Senate's version of the bill. In it she states that: 'Effective legislation is required to rectify serious problems with the current statute.' In closing she states: '...the proper remedy is to also include a mechanism limiting compensation and providing a court process to allow higher amounts under certain circumstances. For example, the appropriate measure should include a compensation cap, and a court process allowing for a greater level of compensation only upon a probate court's review of a court-appointed independent expert provided at the Estate's expense, allowing participation by the Estate, and the Attorney General, and affording a trustee to challenge the result, at the trustee's expense.' (Emphasis added).

"A few days later, on April 11, 1998, even Ms. Beadie Dawson, attorney for Na Pua A Keali'i Pauahi does not express full support of the Senate's version of House Bill 2362 HD1 SD1. She states: '[I] urge you to place a cap on the "reasonable" standard for compensation for trustees of charitable trusts to foreclose the annual litigation which is sure to arise if trustees of certain charitable trust continue to submit requests to the Probate Court for excessive commissions year after year.' (Emphasis added).

"In sum, Mr. Speaker and colleagues, it cannot be said that the Senate's version of this measure as seen in HB 2362 HD1 SD1 adequately addresses the concerns raised by each of the persons or organizations listed above. Whether we like to admit it or not, even the most vocal and thoughtful proponents have concerns with this bill. It is not true that the proponents have all supported the passage of this bill wholeheartedly.

"Realizing that we should never rely solely upon testimony for such an important issue, I would like to share some legislative history regarding Hawaii's charitable trust law. The issue of compensation for the trustees of charitable trusts has been a reoccurring one in the Legislature for over 70 years. Throughout the years, the Legislature has affected the compensation of the charitable trustees' compensation by amending the law. Looking at the past history, I think we should take more time to explore this issue at length in order to fashion a law which can work far into the future.

"In 1901, the Hawaii Supreme Court in, *In the Matter of the Estate of W. C. Lunalilo*, 13 Haw 317, 318 (1901), finding that 'no statute that prescribes the compensation of trustees', ruled that it would follow the Civil Code

Section 1281 'Fees of Executors, Administrators and Guardians' when determining the compensation of the trustees. Application of Civil Code Section 1281 effectively allowed the trustees compensation based '[u]pon all moneys received representing the Estate at the time of the institution of the trust' revenue or income according to the following schedule: 10% on the first \$1000; 7% on the next \$4,000; and 5% for amounts over and above the first \$5,000. Thus, the compensation formula was applied to a charitable trust in calculating trustees' compensation.

"In 1925, Section 1281 was amended to Section 2544 and no other changes relevant to this discussion was made.

"In 1927, the Legislature passed House Bill 137 amending Section 2544. It became Act 183 after being signed by Governor W. R. Farrington on April 27, 1927. Act 183 specifically included trustees of both charitable and noncharitable trusts into the commission statute and essentially codified the Supreme Court's decision in In the Matter of the Estate of W. C. Lunalilo. The legislative history on this bill indicates that the purpose was 'to revise the schedule of commissions payable to executors, administrators, trustees and guardians with a view to equalizing the compensation'. Senate Journal at page 1003 (1927) (emphasis added).

"In 1943, sixteen years after the passage of Act 183, essentially due to the public's outcry regarding the Bernice Pauahi Bishop Estate Trust, the Legislature passed Senate Bill 42. It became Act 149 after being signed into law by Governor Ingram M. Stainback on May 11, 1943. The effect of Act 149 was to reduce the amount of compensation that the trustees of charitable trusts were to receive by making a distinction between charitable and non-charitable trusts.

"The Senate Committee on Judiciary, chaired by Senator William Heen, stated:

"The purpose of this bill is to separate charitable trusts from ordinary trust and to make a distinction in the commission charges, reflecting the great distinction between the purposes of private and charitable trusts. The necessity for amending the law in regard to the commissions and allowances of trustees of trust has arisen from the method of administration of the Bernice Pauahi Bishop Trust. The bill as introduced was designed to limit the commissions of trustees of charitable trusts to a maximum of \$10,000.00 a year regardless of how many trustees participate in the administration of the trust."

"Senate Journal at page 638 (1943) (emphasis added).

"The Senate Committee on Judiciary went on to state:

"Your Committee feels that attention should be called to the fact that the trustees ... have violated the terms of the trust. ... Your Committee feels that the exorbitant cost of administering the Bishop Estate, and the limited benefit received by the beneficiaries for whom Bernice Pauahi Bishop created the trust, have rendered long overdue this amendment to the statute awarding commissions to the trustees of charitable trusts."

"Senate Journal at page 640 (1943).

"While the Senate's reported purpose was to reduce the Bishop Estate trustees commissions, the House's Committee on Judiciary, chaired by Representative Hebdon Porteus, chose to look at the broader scope of this bill and take what it believed to be a more balanced

approach. The House Committee on Judiciary reported as to its reasoning behind its version of SB 42:

"Senate Bill No. 42 provides that the commissions on income of trusts of a charitable trust shall be one and one-half percent (1-1/2%) of such income plus such allowances for bookkeeping, clerical and special services performed for the trustees by others together with expenses incidental thereto as the judge or court may deem just and reasonable.

"While Bernice P. Bishop Estate is uppermost in the minds of many people insofar as Senate Bill No. 42 is concerned, it must be remembered in considering the same that it is applicable to all the other charitable trusts now existing in the territory and to all charitable trusts which may hereafter be created if a provision is not made by their terms for the amount of compensation to be paid trustees thereof for such services. It became immediately apparent to your Committee that a rate of 1-1/2% was not equitable insofar as small charitable trusts were concerned. This can be readily perceived from the fact that a trustee would receive but \$600.00 for services in relation to a charitable trust having an income of \$40,000.00. It is often the case that a charitable trust has several trustees. This of course results in a further reduction of the fees for services. In the minds of your Committee, the really difficult problem of the trustees begins after the income has been collected. Indeed, it cannot be said that trustees of a charitable trust are successfully performing their duties, no matter how large an income they may secure from the trust properties, if they do not adequately fulfill the desires of the settlor with regard to the purpose that the settlor desired to accomplish.

"Your Committee sought to find some manner by which proper compensation would be afforded trustees of various relatively small charitable trusts but at the same time, insofar as an estate as large as the Bernice P. Bishop Estate would not result in compensation so high that any person might be impelled to seek a position as trustee thereof because of the size of such compensation. While it became apparent to your Committee that some did not believe that the purposes of Mrs. Bishop were being achieved, your Committee did not want to take any action which would penalize the present trustees and result in a detriment to the future administration of the trust."

"House Journal at pages 1053-1054 (1943).

"The House Committee on Judiciary was of the opinion that a graduated scale of commissions on income would ensure that 'all but the very largest of the charitable trusts the same compensation as now received and which would result in a substantially reduced amount of income from the previous year to the Bishop Estate trustees.' Id. at 1055. The House introduced a floor amendment to SB 42 which was passed on Third Reading with 23 ayes, and 7 noes. Id. at 1077. The House's version of SB 42 based on the Estate's previous year's income reduced the Bishop Estate trustees total compensation to be split amongst the five trustees by approximately 50%, from a total of \$59,000 or \$15,000 per trustee to \$33,000 or \$6,600 per trustee. Id. at 1055. In short, Act 149 provided that charitable trust trustees were entitled to receive compensation on all moneys received in the nature of revenue or income of the Estate, such as rents, interests, and general profits according to the following schedule: 10% on the first \$1,000; 7% on the next \$4,000; 5% on the next \$100,000; 3% on the next \$100,000; 2% on the next \$300,000; and 1% on all over \$505,000.

"In 1959, sixteen years after the enactment of Act 149, the Legislature once again reviewed the law concerning

compensation of charitable trusts trustees in HB 1590. However, this time the Legislature's purpose in amending the applicable statute was to increase trustees' commissions. HB 1590 became Act 169 after being signed by Governor William 'Bill' Quinn, on May 27, 1959, three months before Hawaii became a State. Curiously, both the House and Senate Journals are void of any substantive information on the reasons behind their decision. In effect, Act 149 provided that charitable trust trustees were entitled to receive compensation on revenue or income of the Estate, such as rents, interests, and general profits according to the following schedule: 10% on the first \$1,000; 7% on the next \$4,000; 5% on the next \$100,000; 3% on the next \$100,000; and 2% on all over \$205,000.

"As history reveals, previous Legislatures reviewed the same issue as we are today. And I imagine similar debates and discussions took place in dealing with the laws regarding charitable trusts. For whenever one deals with the issue of fairness and equity, alongside that of compensation and worth, reasonable minds can and will disagree. In our present circumstances, I believe we have reasonable disagreement to the remedy we all are seeking. But, I am most concerned with the expediency in which we have constructed a purported cure.

"A review of how this particular bill has moved through the Legislature is truly amazing. Again, what I find troubling is that the concerns raised throughout the legislative hearings have not been resolved within the bill and an unfinished product is being touted as finished.

January 29, 1998	SB 3037 Referred to 1. JDC 2. WAM
February 18, 1998	SB 3037 Re-referred to JDC/WAM
March 5, 1998	The Senate proposed draft of SB 3037 SD1 is heard
March 6, 1998	Senate proposed draft passes JDC/WAM committees
March 6, 1998	SB 3037 SD1 passed 2nd Reading (Generally, no discussion on 2nd Reading)
March 10, 1998	SB 3037 SD1 Passed 3rd Reading (25 ayes), sent to House.
March 10, 1998	Senate receives House Bill 2362 HD1 (Task Force to study compensation for trustees of charitable trusts) (approximately 1 month elapses)
April 6, 1998	Notice of Public Decision making given by JDC/WAM for HB 2362 HD1
April 9, 1998	Public Hearing/Decision making for HB 2362 HD1 made by JDC/WAM (contents replaced with contents of SB 3037 SD1)
April 9, 1998	HB 2362 HD1 SD1 Passes 2nd Reading in Senate
April 14, 1998	HB 2362 HD1 SD1 Passes 3rd Reading and sent back to House
April 29, 1998	Conference Committee meeting on HB 2362 HD1 SD1---no agreement

"As I have noted previously, the Senate was made aware of the substantive concerns with their draft by numerous organizations, including the authors of 'Broken Trust', Beadie Dawson, and the Attorney General at their public hearing. Yet, about one month after receiving HB 2362 HD1, they replaced the House bill contents in its entirety (with the contents of SB 3037 SD1) even after receiving correspondence indicating significant concerns with the bill. More importantly, does this body realize the concerns I've expressed? Do we realize that the issues of concern still remain in the bill? And, we are doing so in spite of the concerns raised by even the most ardent supporters for change. Do members realize that soon after the Conference Committee adjourned, both Beadie

Dawson and our Attorney General stated this bill will lead to more litigation and expense to both taxpayers and the Bishop Estate?

"In closing, may I remind my colleagues that the duty of the any legislative body in a representative democracy is to act deliberately, and gather together all relevant and pertinent facts and data before making a decision on either a new law or an amendment to present law. History shows time and time again that the worst decisions and biggest mistakes by any lawmaking body are made when done in haste, on the basis of emotion, or popular pressure. It is my understanding that the Bishop Estate Trust has been in existence for about 113 years. Why do we suddenly forsake the deliberative method and study as usually imposed on similar legislation? Unlike a few issues requiring immediate attention and remedy, this particular issue is not time-sensitive.

"Certainly, it is not my intention to defend any alleged action of the Board of Trustees or employees of Princess Pauahi's trust. That will be left for the courts and the beneficiaries to decide. Nor am I saying that the Legislature has no authority to affect compensation due trustees of charitable institutions, because it does if the facts bear out a need to do so. And that is what HB 2362 HD1, as amended by the House Judiciary Committee, would do -- allow us to gather the necessary information so that we might make an informed decision. Perhaps if more time was allowed, we could fashion a bill to address the concerns raised by Ms. Dawson, Na Pua A Ke Ali'i Pauahi, and the Attorney General. History has shown us that this is a reoccurring issue, one which might have been better addressed by taking more time after the conclusion of this session to study in depth the issue, the desired result, and the best method to achieve the result.

"Mr. Speaker, notwithstanding my prior remarks, I will vote in favor of this bill with reservations, because my analysis of this measure is but one member's opinion. I do, however, take comfort in the fact that our legislative system of 'checks and balances' allows the Governor to further review this measure as he has time to consult with others, and conduct due diligence analysis. For maybe, under the circumstances of the moment, I, too, missed something. Maybe I, too, erred. And, most importantly, maybe any perceived shortcomings in this bill may in fact be found to be nonexistent in actual day-to-day application by our courts. I can, therefore, only hope that I am in error and we have done what is pono.

"For all the foregoing reasons, I vote in support of this measure with very grave reservations."

Representative Kahikina then rose in support of the motion with reservations and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kahikina's remarks are as follows:

"Mr. Speaker, on this legislative measure, I vote yes with grave reservations. First of all, I see factions plotting to take what Hawaiians have, just as the Hawaiian Nation was stolen in 1893; and secondly, this measure is seriously flawed as it will be a mechanism for lawyers to capitalize on.

"Hawaiian sovereignty and autonomy today are lodged in the dedicated trusts working for the betterment of Hawaiians. The combined resources of the Kamehameha Schools/Bishop Estate, the Queen Liliuokalani Trust, the Queen Emma Foundation, the Lunalilo Trust, the Ceded Land Trust, the Department of Hawaiian Homelands and the Office of Hawaiian Affairs amount to over 10 billion dollars in assets.

"All of these resources exist, and they exist for the betterment of the Hawaiian people. The sovereignty of all the Hawaiian Trusts are under attack. The Lunailo Trust was stripped of its assets long ago and today must beg for funds it needs to serve our kupuna.

"This measure steals the power of the Alii Trusts from the Hawaiians and again gives it to the state through a probate court which will decide the yearly compensation of the trustees. This is history repeating itself. For every slow step forward which the Hawaiian people are making, there is repeatedly some entity there to pull us back.

"Again Mr. Speaker, I thank you for allowing me to voice my reservations to this bill which I find is similar to the Hawaiian Nation overthrow except, of course, instead of a military takeover, we have become more civilized. We use our laws and lawmakers."

Representative Morihara then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Nakasone then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered."

Representative Tom then rose in support of the motion and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tom's remarks are as follows:

"Mr. Speaker, I rise to speak in support of H.B. 2362 relating to charitable trusts.

"Mr. Speaker, I rise to speak tonight because there are those in this chamber who would like to silence me and the citizens of Kaneohe, Heeia and Ahuimanu by preventing me from voting on their behalf.

"It strikes me as ironic that before our vote last Tuesday on this measure, I had already voted three times on the floor of this House in favor of this bill without a whisper of complaint. Only when politics came into play last Tuesday was my vote questioned.

"Mr. Speaker, for the fourth time now I will be casting my vote, and the vote of my constituents, in favor of this bill, because the measure has secured the recommendation of the House Conference Committee members.

"I took the extraordinary and unprecedented step of declining to exercise management of this bill as Judiciary Chair because I believed that this action would reassure the public that the final form of this high-profile bill was unquestionably the result of an impartial process. I took and take no part in the Conference Committee process.

"But I never promised nor suggested that I would not vote on this measure when it came before the House, and I have voted on this measure at every opportunity. House rules require me to vote, just as they require every member of the House to vote. In fact, were I to refuse to vote, the rules require that a vote be entered on my behalf.

"It is a good and fair rule because without it members could duck their responsibilities on the tough issues simply by declaring a personal interest in the question.

"In a part-time Legislature conflicts cannot be avoided, and so members are excused from voting by the Speaker only when the member has a monetary interest in the question.

"You have ruled, correctly, that I cannot be excused from voting, even though I have raised and stated the potential conflict to you. It is clear that this bill does not adjust or affect my salary or my compensation from any source in any way.

"The only ethical course available to me has been, and is, to cast my vote on this bill when it comes to the floor of the House. I will neither duck this issue nor abandon the rights of my constituents to a voice in this Legislature.

"My private legal practice and my legislative duties have been, and always will be, separate, just as they are separate for the lawyer-legislators in this House who are voting despite their continuing representation of those whose interests are in opposition to the charitable trusts affected by this bill.

"I voted for this bill in the past because it was my belief that compensation to any trustee must be reasonable. Charitable trusts in Hawaii are, for the most part, uniquely Hawaiian and do not fit comfortably with the usual mainland model. I believed it was both wise and appropriate for the House to propose giving our local courts more guidance and expertise as they try to determine what is reasonable for these types of trusts.

"I give my deepest thanks and respect to Vice Chair Representative Yamane for his willingness to take on such a difficult and emotional issue on behalf of the House, and the wisdom he has shown in resolving differences with the Senate.

"Although I remain concerned that without more legislative guidance, we may increase rather than decrease litigation involving charitable trusts, I will cast my vote, and the vote of my constituents on the Windward side, in support of our House conferees and in support of this bill."

Representative Ahu Isa then rose in support of the motion with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Ahu Isa's remarks are as follows:

"Mr. Speaker, I rise in support with strong reservations.

"Out of true concern for my son, my daughter and brothers, all graduates of Kamehameha Schools, as well as all other beneficiaries of our beloved Princess Pauahi, I vote 'yes with strong reservations' on the motion to agree with the Senate's version of the charitable trust bill, H.B. 2362, HD1, SD1, because the term 'reasonable compensation' will leave this statute wide open for many interpretations ranging from \$1 to possibly \$5 million, and will tie up this issue in court for years to come with tremendous expense to Hawaii's taxpayers because lawyers will have a heyday debating just what is reasonable compensation...Mr. Speaker, why are we letting the courts do the job of the Legislature? Is giving the Probate Court all the power to reward or punish our Hawaiian trustees a wise and fair thing to do? We, as legislators, are responsible for setting the laws of this State. We are criticized and crucified by the public as well as the courts when a 'bad law' is passed, a law that lends itself wide open to many interpretations by the courts. Then the public criticizes our courts when they interpret the laws and they are not to the satisfaction of the public."

Representative Ward then rose and stated:

"Mr. Speaker, I rise without reservations and say that in support of this bill, we have done a great deed for the

trust and particularly in nullifying what the IRS may be doing. I think this is a great move in the right direction. Thank you."

Representative Suzuki then rose in support of the motion and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Suzuki's remarks are as follows:

"I rise in favor of the motion. I am in favor of this motion to set compensation of trustees for charitable trust at levels that are reasonable under the circumstances. This standard of compensation will clear the confusion and under current law as reported by Colbert Matsumoto's Masters Report last December. On page 92, for example, he comments, 'HRS 607-20 does not define the terms 'revenue or income of the estate' or 'general profits.' As a result, it is not clear in what circumstances 'net income' as opposed to 'gross income' is used as the measure for calculating commissions. It is also unclear to what extent 'capital losses' are offset against 'capital gains' for purposes of calculating commissions.' Another instance of confusion relates to the gross income received from carrying paper versus the profit that would be measured by not structuring transactions to increase gross income, but rather, measure profits based on net finance income similar to the franchise tax method of measuring income. Not changing the law would continue the confusion for all subsequent masters reporting on the aspect of appropriate compensation.

"As I have also mentioned in my May 6, 1998 floor speech, the more serious concern is the adverse treatment of the tax exempt status now enjoyed by the Bishop Estate. Under the intermediate sanctions law as described by law professor Randall Roth, any compensation that is in excess of what would be reasonable under the circumstances could jeopardize the tax exempt status of the charitable trust. This risk can be avoided with the passage of this bill.

"This measure should be passed to preserve the trust assets and maximize its utility for the benefit of the trust beneficiaries and ultimately the State of Hawaii. Continued exposure created by the current laws does not serve the public interest and in fact preserves the status quo that as time passes has shown to be contrary to the intent of the purposes of the Bishop Estate charitable trust."

"Thank you Mr. Speaker"

Representative Say then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered."

Representative Meyer then rose in support of the motion and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker, the issue of trustee compensation has been brought to a head over the last several months due to the Bishop Estate controversy. There is no doubt in any right-thinking person's mind that trustees such as the Bishop Estate trustees are being paid exorbitant amounts for their service. I, for one, cannot see why there is so much opposition to this bill. It would provide a mechanism by which trustee pay would be controlled to a 'reasonable' level.

"I also cannot understand why and how members of this body who actually are paid by the Bishop Estate can, in good conscience, vote on this measure at all. It would

seem to me that anyone on the trust's payroll should absent themselves from voting on this bill.

"Control over trustee compensation is needed badly. This bill will provide a measure of such control at a critical time. Therefore, I vote 'yes' on HB 2362."

Representative Kawanakoa then rose and stated:

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

"I'd simply like to note that I'm very pleased to see that this House, in a very honorable manner, has come to see fit to rule or vote in a manner that's consistent with the public opinion. And to simply note that I know that there's a lot of stress and pressure over this particular matter. And it's a delight for me to see that right is triumphing over might, Mr. Speaker. It's a proud day for the people of Hawaii and for this legislative body. Thank you, Mr. Speaker."

At 9:55 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:56 o'clock p.m.

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2362, HD 1, SD 1, with Representative Say voting no, and Representatives Chang, Pendleton, Takamine and Takumi being excused.

FINAL READING

H.B. No. 2362, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, H.B. No. 2362, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE TRUSTS," passed Final Reading by a vote of 46 ayes to 1 no, with Representative Say voting no, and Representatives Chang, Pendleton, Takamine and Takumi being excused.

The Chair directed the Clerk to note that H.B. No. 2362, had passed Final Reading at 9:57 o'clock p.m.

At 9:57 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:58 o'clock p.m.

ANNOUNCEMENTS

Representative McDermott: "Just for some of the members edification. One of the people that's always down here lobbying us, Ms. Betty Tatum, I'm sure a lot of you know her husband had a heart attack and he had by-pass surgery. I went and visited him the other day. He's doing fine. They live right down the street from me and I sent him some flowers. So I just thought that he looks real good and she thanks everybody for their prayers. Thank you."

Representative M. Oshiro then moved to keep the Journal open until midnight this legislative day for the purpose of receiving Conference Committee Reports, seconded by Representative Marumoto and carried, with Representatives Chang, Pendleton, Takamine and Takumi being excused.

At 9:59 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Conference Committee Reports.

CONFERENCE COMMITTEE REPORTS

In accordance with the motion made earlier, the following Conference Committee Reports (Conf. Com. Rep. Nos. 145 and 146) were received in the Clerk's office and the following actions taken:

Conf. Com. Rep. No. 145 and H.B. No. 3403, HD 2, SD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PROPERTY," were placed on the calendar for Final Reading on May 11, 1998.

Conf. Com. Rep. No. 146 and H.B. No. 1824, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," were placed on the calendar for Final Reading on May 11, 1998.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 3:00 o'clock p.m. on Monday, May 11, 1998.

SIXTY-THIRD DAY

Monday, May 11, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 3:18 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Dennis A. Arakaki, after which the Roll was called showing all members present with the exception of Representatives Abinsay, Ahu Isa, Aiona, Cachola, Chang, Fox, Goodenow, Hamakawa, Ito, Kahikina, Kanoho, Kawakami, Marumoto, Menor, Meyer, Nakasone, Say, Suzuki, Takumi, White and Yonamine, who were excused.

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

SENATE COMMUNICATION

The following communication from the Senate (Sen. Com. No. 749) was received and announced by the Clerk and was placed on file:

A communication from the Senate (Sen. Com. No. 749) informing the House that the Senate has reconsidered its action of April 16, 1998, in disagreeing to the amendments proposed by the House to Senate Bill No. 3000, SD 2 (HD 2), and has moved to agree to the amendments. The Senate further informs the House that said Senate Bill No. 3000, SD 2, HD 2, passed Final Reading in the Senate on May 8, 1998.

INTRODUCTION

Representative Ward introduced to the members of the House Mr. Charles Rogers, Chairperson of the Neighborhood Board in Hawaii Kai.

At this time, the Chair announced that the House will stand in recess until 5:00 o'clock p.m. this afternoon.

At 3:25 o'clock p.m., the House of Representatives stood in recess until 5:00 o'clock p.m. this afternoon.

Upon reconvening at 5:37 o'clock p.m., the Vice Speaker assumed the rostrum.

ORDER OF THE DAY

COMMITTEE REASSIGNMENT

The following bill (S.B. No. 2618) was re-referred to committee by the Speaker:

S.B.
No.

Re-referred to:

2618 Committee on Human Services and Housing, then to the Committee on Finance

UNFINISHED BUSINESS

Conf. Com. Rep. No. 119 and H.B. No. 3446, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 33 and S.B. No. 3248, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 136 and S.B. No. 2633, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 137 and H.B. No. 2680, HD 2, SD 1, CD 2:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 138 and H.B. No. 2990, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 139 and H.B. No. 3443, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 140 and H.B. No. 2560, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 141 and S.B. No. 379, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 142 and S.B. No. 760, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 143 and S.B. No. 2204, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 144 and S.B. No. 2350, SD 1, HD 2, CD 1:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 145 and H.B. No. 3403, HD 2, SD 1, CD 2:

By unanimous consent, action was deferred one day.

Conf. Com. Rep. No. 146 and H.B. No. 1824, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred one day.

GOVERNOR'S MESSAGE

A message from the Governor (Gov. Msg. No. 217) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 217, transmitting an Executive Order providing for a further extension of the Regular Session of 1998 of the Nineteenth State Legislature, as follows:

EXECUTIVE ORDER

WHEREAS, Section 10 of Article III of the Constitution of the State of Hawaii provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the Governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii for a period of 48 hours following 12:00 o'clock midnight, May 11, 1998.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 11th day of May, 1998.

/s/ Benjamin J. Cayetano
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Margery S. Bronster

MARGERY S. BRONSTER
Attorney General"

INTRODUCTION OF RESOLUTION

The following concurrent resolution (H.C.R. No. 250) was received and announced by the Clerk and was placed on file:

H.C.R. No. 250, entitled: "HOUSE CONCURRENT RESOLUTION DECLARING TUESDAY, MAY 12, 1998, A RECESS DAY OF THE NINETEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1998," was jointly offered by Representatives Souki, Garcia, Kawanakoa, Okamura, M. Oshiro and P. Oshiro.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, H.C.R. No. 250 was adopted, with Representatives Ahu Isa, Chang, Souki, Takamine and Takumi being excused.

HOUSE COMMUNICATION

A communication, dated May 11, 1998, to the Honorable President and members of the Senate of the State of Hawaii from Patricia Mau-Shimizu, Clerk, House of Representatives, informing the Senate that the Speaker has discharged Representative Santiago as a Co-Chair; and has replaced Representative Kahikina with Representative Kanoho as a conferee on the part of the House at the conference on Senate Bill No. 2618, SD 1, HD 1, was placed on file.

ANNOUNCEMENTS

Representative Okamura rose and stated:

"This is to inform the members that the copy of the Order of the Day and Conference Committee Reports will be delivered to your offices this evening as they are made available. Also, there will be a Majority caucus tomorrow morning at 8:30 in Room 325."

Representative Marumoto rose and stated:

"I would like to have the Republican members caucus right after the session for a short time, and also we will be caucusing tomorrow in Room 329 at 2:00 p.m."

Representative Tom rose and stated:

"Normally, we have a tradition for those who don't have birthdays during the session to do a celebration for them. I don't think it was anticipated that... well, anyway it did, so I want to express to a person who was celebrated, because we didn't think we'd be here on his birthday and we're still here. So will you all give a nice hand to Michael White. It's his birthday today."

Representative M. Oshiro then moved to keep the Journal open until 12:00 o'clock midnight this legislative day for the purpose of receiving Conference Committee Reports, seconded by Representative Marumoto and carried, with Representatives Ahu Isa, Chang, Souki, Takamine and Takumi being excused.

At 5:42 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Conference Committee Reports.

CONFERENCE COMMITTEE REPORTS

In accordance with the motion made earlier, the following Conference Committee Reports (Conf. Com. Rep. Nos. 147 through 174) were received in the Clerk's Office and the following actions taken:

Conf. Com. Rep. No. 147 and H.B. No. 2500, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 148 and H.B. No. 2710, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 149 and H.B. No. 1800, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CASH MANAGEMENT OF STATE FUNDS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 150 and H.B. No. 2800, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MANAGEMENT OF STATE FUNDS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 151 and H.B. No. 2803, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 152 and S.B. No. 2386, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 153 and S.B. No. 2689, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES RETIREMENT SYSTEM," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 154 and H.B. No. 3625, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT REORGANIZATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 155 and S.B. No. 2254, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 156 and S.B. No. 2966, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 157 and S.B. No. 3220, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 158 and S.B. No. 2092, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX LAW," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 159 and H.B. No. 2750, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 160 and H.B. No. 1533, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 161 and S.B. No. 2213, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 162 and H.B. No. 2648, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 163 and H.B. No. 2563, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL-BASED BUDGETING," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 164 and H.B. No. 2564, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 165 and H.B. No. 2749, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 166 and H.B. No. 2909, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL

RESEARCH AND DEVELOPMENT," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 167 and S.B. No. 2259, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 168 and S.B. No. 3004, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 169 and S.B. No. 2338, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF HOISTING MACHINE OPERATORS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

(Conf. Com. Rep. No. 170 and H.B. No. 2222, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR ESTABLISHMENT OF MANUFACTURING EXTENSION PROGRAMS," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 171 and S.B. No. 2922, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 172 and H.B. No. 2552, HD 1, SD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 173 and H.B. No. 1624, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BOILER AND ELEVATOR SAFETY LAW," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

Conf. Com. Rep. No. 174 and S.B. No. 2618, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICALLY UNDERSERVED," were placed on the calendar for Final Reading on Wednesday, May 13, 1998.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 3:00 o'clock p.m. on Wednesday, May 13, 1998.

SIXTY-FOURTH DAY

Wednesday, May 13, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 3:20 o'clock p.m., with the Speaker presiding.

The invocation was delivered in song by Representatives Lei Ahu Isa, Michael Puamamo Kahikina, Ezra R. Kanoho, Bertha C. Kawakami and Alexander C. Santiago, after which the Roll was called showing all members present with the exception of Representative Menor, who was excused.

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, reading of the Journals was dispensed with and the Journals of the House of Representatives of the Fifty-Fifth, Fifty-Sixth, Fifty-Seventh, Fifty-Eighth and Fifty-Ninth Days were subsequently approved. (Representative Menor was excused.)

INTRODUCTIONS

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

Representative Tarnas introduced a friend and Director of the Natural Energy Lab of Hawaii, Mr. Jim Frazier.

Representative Morita introduced friends from Princeville, Kauai, Mr. and Mrs. Jim and Judy Buckley.

Representative McDermott introduced a friend, Mr. Harry Freil.

Representative Kahikina introduced Mr. John Penebacker.

Representative Meyer introduced Mr. Chris Pablo.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTION

The following concurrent resolution (H.C.R. No. 251) was announced by the Clerk and the following action taken:

H.C.R. No. 251, entitled: "HOUSE CONCURRENT RESOLUTION CALLING FOR A JOINT SESSION OF THE LEGISLATURE FOR THE PURPOSE OF APPOINTING THE OMBUDSMAN," was offered by Representative Souki.

Representative Okamura moved that H.C.R. No. 251 be adopted, seconded by Representative M. Oshiro.

At 3:29 o'clock p.m., Representative Marumoto asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:30 o'clock p.m.

The motion was put to vote by the Chair and carried, and H.C.R. No. 251 was adopted by a rising vote, with Representative Menor being excused.

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the rules were suspended for the purpose of considering bills on Final Reading on the basis of a modified consent calendar. (Representative Menor was excused.)

UNFINISHED BUSINESS

Conf. Com. Rep. No. 147 and H.B. No. 2500, HD 1, SD 1, CD 1:

Representative Say moved that the report of the Committee be adopted and H.B. No. 2500, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Kawakami.

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

"Mr. Speaker and members of the House, I rise in full support of this measure, but before I begin I ask all of my colleagues in this chamber to give a round of applause for the 1998 Finance Committee staff: Brian, Roger, Alan, Susan, Liza, Jackie and Sherry. Hey, gang, where's the research staff? Still working? Okay.

"Mr. Speaker and members of this House, for the past six months, these young men and women each dedicated a large portion of their lives in assisting myself and the rest of the Finance Committee in crafting the House Budget and subsequently the Conference Draft that sits before you all today.

"I would also like to acknowledge and recognize the members of the Finance Committee, specifically Vice Chair Bertha Kawakami, who spent many long days and nights and mornings with me deliberating all of the issues surrounding this year's financial plan. She was my 'right hand man' during this particular conference that we participated in during the past two weeks.

"Of the 22 years as a member of this body, this session by far has been the toughest, most grueling session that I've ever spent. Everyday, the Committee on Finance faced very, very tough dilemmas. In fact, it seemed like each day's round of decision making was harder than the day before. Nevertheless, the Finance Committee endured and succeeded in making the most responsible decision possible on behalf of the State House.

"Mr. Speaker and members of this House, on my desk before me lies a list of reductions that each of our departments have taken. I'm somewhat troubled by what each program must do with their budgets as it's been made smaller. And the fact that people who depend on these programs will have less to rely on, from the Department of Commerce and Consumer Affairs, which is taking a 55 percent general fund reduction, to the Department of Defense, which is only taking a 1.7 percent reduction. And let me say this afternoon, not one of these departments has been left untouched.

"Furthermore, and I speak of my colleagues across the aisle, we have taken the following actions in this budget: a reduction of 575 positions of which 42 positions are filled; an \$8 million cut in vacancies statewide; a 10 percent cut in travel expenses; a deletion or a conversion in the means of financing of 17 programs.

"We have also controlled our fixed costs by cutting over \$30 million in debt service and \$2 million from our State leasing of office facilities. And unfortunately, due to fiscal circumstances, we did not fund any new collective

bargaining agreements through this or any other legislative measure, saving our State over \$100 million. Still, Mr. Speaker, many people will say that we didn't cut enough. A good business associate of mine this morning said that to me: 'Hey, Calvin, you guys didn't cut enough.' And so I told Hiroshi: 'you tell me where.'

"You have three to four more schools coming on line this fall for teachers, for administrators, for cafeteria workers, for custodians and janitors, to the clerks. But before they say anything, let's stop and let me remind you that in dealing with our revenue shortfall, Mr. Speaker and members, these cuts have occurred over the past seven years. The cuts began during the last two years of the Waihee Administration and has continued on during these past four sessions.

"We have done as much as we could. Can I say, we would do more? Moreover, for just this Administration that we are in, our total general fund appropriations has been reduced by over 8 percent. And we have still tried to fulfill the services that the general public needs and desires. And this has happened, Mr. Speaker and members, while our population has grown by over 15 percent. In fact, if you were to include the reductions that this body had made last year, we have, Mr. Speaker and members, reduced our State budget by approximately \$429 million when compared to the fiscal biennium '97-'99 supplemental request.

"Many of you, and even people in the district that I come from, question our one week extension. To more appropriately comment on this issue, let me take you back to the beginning of conference. At that time, the House and Senate were facing a difference of over \$64 million in general funds in our respective drafts. The majority of these differences were due to the Senate's unrealistic budget cuts to the Quest Program that provides 120,000 people in the State of Hawaii with health insurance, and the Felix Consent Decree, which is for our special education student body population from K-12. However, let me say this and warn all of you this afternoon, thanks to the Vice Speaker and Representative Kahikina and Representative Santiago and Representative Stegmaier, it's not K-12 anymore. It's going to include the 0-3 only.

"I warn all of you that the 'day of reckoning' will come very shortly based on a decision that was made in Florida, correct me if I'm wrong, Vice Chair. Is that correct -- the Florida decision?"

Representative P. Oshiro then yielded his time to Representative Say.

Representative Say continued, stating:

"And last, but not least, the Department of Education's differences in a \$20 million cut that the Senate did on top of the supplemental budget request.

"Mr. Speaker and members, although this final draft is a compromise of both houses, I know for a fact that before adjourning this chamber, we would have to be assured that these irresponsible cuts were restored. There could be no compromise on many of the Senate cuts. Unfortunately, try as they might, it took longer than expected to convince the Senate that these reductions were not justified. In fact, Mr. Speaker and members of this House, one of the major flaws of the Senate budget was that it made reckless cuts to our most crucial areas -- health and human services and education.

"Although I firmly believe that we will encounter several more years of budget reductions, I do not believe that our court-mandated cases, our welfare programs, or education could have sustained such enormous losses.

"Mr. Speaker and members, several months ago, on March 12, 1998, I stood on this floor and spoke of the merits of the House budget. It was a good budget and not everyone was pleased, but it paid for all of our fixed costs. It provided adequate funding for our indigent without making drastic cuts to the Quest population. It furnished sufficient monies for instruction at the school level without decimating our State and district administration. It granted enough money for tourism promotion, which also created a dedicated marketing fund. It included the State's continued compliance with our court-mandated cases, mainly the Felix Consent Decree and the Spears Consent Decree. And finally, Mr. Speaker, it was a budget that was not built upon unrealistic or irresponsible reductions.

"Mr. Speaker and members, this budget is not different. This budget will provide for all of the aforementioned things. Everything in the House draft is in this final draft with the exception of one thing. Although there will be a small tax break for the people of Hawaii, without the necessary increase in the GET we cannot afford to give everyone the large tax relief that we wanted. And contrary to popular belief, I say again, we cannot afford to give large tax breaks just by cutting the State budget.

"In closing, let me say this. In the past, we, Hawaii's lawmakers, both Majority and Minority, have made it our duty and our responsibility to provide for all of the needs of the public. We all took great pride in the fact that Hawaii, maybe more than any other state throughout the country, provides more for its people. We are known as a government that cares and sometimes we care too much. The fiscal implications can be too burdensome and because of this, unfortunately, the public has become too dependent on State government.

"You see, once one gets used to a certain standard, it is unfair and too painful to diminish that standard overnight. Nevertheless, I will say again what has become my 'mantra': Legislators, the public, the Administration must all realize that government cannot, will not, and must not be all things to all people.

"Mr. Speaker and members, I will not lie to you and tell you that the budget before you will not impact on a number of important programs and services of the State. It will. However, under our prevailing economic conditions, it is safe to address the basic needs of the people of the State of Hawaii. Further, it is a sound and responsible way to deal with the problems we are facing today.

"Mr. Speaker and members, on behalf of the Finance Committee, I thank all of you for your assistance throughout this legislative session, and I ask all of you for your support on House Bill 2500, HD 1, SD 1, CD 1. Thank you."

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

"Thank you, Mr. Speaker. I'd like to begin by reading a quote from the 19th century Irish writer, Oscar Wilde: 'I have found that all ugly things are made by those who strive to make something beautiful and that all beautiful things are made by those who strive to make something useful.'

"Mr. Speaker and colleagues, the Executive Supplemental Budget bill before us can be described as all of these -- to some ugly, to others beautiful, and still others, useful. Of course, these adjectives are wholly dependent on how this budget affects you. And in the

difficulty of compromise, this measure is really a collage of competing artists who are all vying for one brush.

"Ten years ago, Mr. Speaker, on April 25, 1988 to be exact, this body debated the merits of the Executive Supplemental Budget for the 1987-89 biennium. And you, Mr. Speaker, was the Chairman of the Finance Committee. And I can recall you stating on this floor that the needs of our children and the welfare of our people could not be neglected, and our children were those most important resources of tomorrow.

"That was 10 years ago and the DOE received a large increase in funding of over \$40 million. But for this upcoming fiscal year, the DOE was just slightly fortunate to have survived relatively untouched in comparison to other State agencies. We restored all proposed cuts and were able to convince the Senate to fund the Felix Consent Decree so as not to have made non-compliance by the Department and face stiff penalties. And although our resources and income have significantly changed within the last ten years, our commitment to education has not. And Mr. Speaker and colleagues, our budget has gone through the longest process of cut and restore not only in education, but in other important areas such as health and human services.

"Another tug of war with the Senate involved the Quest Program, but as with the education cuts it was restored and many of our citizens will be spared having to go without any form of health insurance. We also acknowledged that our public health facilities required general fund subsidies to remain viable as this corporation struggles towards self-sufficiency. And although the appropriation reflects half of what the top corporation requested, we believe that the HHHCs should come back before the 1999 Legislature to present its case for further assistance and how it's achieving greater efficiency and accountability. Because of proud and current restrictions, the art of compromise becomes even more delicate, more sensitive and more far reaching.

"And I stand next to Chairman Say in stating that this budget is clear evidence that the House can make the hard decisions with compassion. That the House can compromise in a fiscally prudent manner. And that the responsibility of charting the State's future is done with the knowledge that only through cooperation and public/private partnerships can this State move forward in the next millennium.

"And in closing, I would like to send a big Mahalo to all the senior Finance staff members, otherwise known as 'the right and the left hands' of Chairman Say, all the researchers, all the budget analysts, and the office staff for their endless support of the Finance Committee members during the longest budget conference period I can ever remember since serving on the Finance Committee.

"I would also like to thank all of my fellow Finance Committee members for your patience and your understanding throughout the deliberations. And finally to Chairman Say, my deep appreciation for affording me the opportunity to experience the inner workings of the budget process. I marvel at his astuteness with keeping focus and his patience in dealing with chaos. He is the epitome of 'the calm in the eye of the storm'. With warmest Aloha and Mahalo Nui to all of you.

"Thank you, Mr. Speaker."

Representative Kawanakoa then rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. With all due deference to the Chair of the Finance Committee and the Vice Chair, I have to vote 'no' on this measure, Mr. Speaker. This budget, like the session, we are finally winding up the travesty of business as usual over hope.

"Mr. Speaker, I have here your Opening Day remarks from just four months ago. You offered the people of the State of Hawaii hope, Mr. Speaker. You said, and I'll quote: '1998 will be the year of invigorating changes. What we will be proposing to do will be radical, controversial, and painful.' You said, 'we must be bold, we must be innovative, we must be strong.' Then you promised us 'it is not business as usual anymore.' And you offered what you termed 'a bold blueprint' to jumpstart Hawaii's economy.

"You and your Majority, Mr. Speaker, held out hope for Hawaii's people, but today the same old status quo won out. What happened here? On Opening Day, Mr. Speaker, Republicans stood here on this floor, and I drew a line in the sand and we told you we would not support any increase in the general excise tax, and that our State budget needed to reduce the size of government and the cost and the waste of government, Mr. Speaker.

"Unfortunately, you kept the proposed hike in the general excise tax on the table for the entire session. The people didn't want it. We certainly were opposed to it as were many of our colleagues across the aisle, Mr. Speaker. And as far as I can tell, the entire Senate was opposed to the general excise tax. Yet, we've built our House budget on that tax hike and Leadership held on blindly, in spite of the overwhelming opposition. And the real work of rightsizing government and restructuring it to provide a better government at a lower price was never accomplished. Mr. Speaker, I don't call that bold, I call it stubborn.

"This budget looks a lot like the ones I've seen in the years before. Overall spending is up 4.3 percent because of a 33 percent leap in capital improvement spending, Mr. Speaker. I sincerely question whether we should be mortgaging our children's future when this government is out of control and shows no sign of curbing spending. In fact, the cut in our operating budget is only 1/10th of 1 percent. That's .1 percent -- under \$3 million -- Mr. Speaker, for the fiscal year we're in right now, and only 1.3 percent for the next year. I don't call that bold either, I call it 'peanuts.'

"You called for a 'commitment to the hopes and dreams of our people.' What we have given them is a budget balanced to provide a modest income tax cut, a cut that doesn't even kick in until our citizens file their taxes in the year 2000. I don't call that bold, I call it fudging. The people need their tax cuts now. If you were serious about stimulating the economy, if you were to have made the cuts bigger and the budget smaller and made it all start right now, we might have something. Republicans would have, Mr. Speaker.

"This budget needed to reflect a commitment to make government truly smaller and stronger. This budget needed to put an end to all the waste that we read about in the papers: the Department of Transportation not investing their resources and losing \$4 million in interest. And what about the federal fuel taxes? We didn't even have to pay the unknown millions over the years that we've just allowed to go out of our coffers. We needed to put a stop to countless millions, such as this waste, in going down the drain. Mr. Speaker, Republicans would have.

"Republicans in this body would have done what still needs to be done. We offered a sound plan that would

give the people a much larger tax cut, Mr. Speaker, which would truly stimulate our economy. We offered several mechanisms to downsize government in an intelligent fashion. We would have done away with the waste and inefficiency in order to afford real change.

"Mr. Speaker, people are expecting this budget and this financial plan to significantly improve our economy. You, and we, raise their expectations, but have failed to meet them, Mr. Speaker. We need to fix our economy. Republicans would have and it will be Republicans who will.

"Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise to speak in opposition to the budget and as a duly elected official of the people of Hawaii who are dissatisfied with the fiscal management of this State. And I say it with more freedom this time, Mr. Speaker, because this is the first time I've not been on the final Conference Committee of the budget committee. I got cut by Representative Say for the first time, and so I'm free. And I wish to speak for those who are fiscally dissatisfied with what we have been doing for the last eight years, because a budget reflects the way people live and where they're really at, Mr. Speaker. We can say things, but where you spend your money really shows where you're at.

"Well, this budget shows where we are at. And I think, Mr. Speaker, to really get us in the context of how we can't see this in isolation, we have to go back over the last seven years to see some of the things that..."

Representative M. Oshiro then rose on a point of order, stating:

"This is a supplemental budget and it deals with the supplemental budget. We shouldn't be going back into history too far."

The Chair responded: "We will allow Representative Ward to give some brief history. Please proceed."

Representative Ward continued, stating:

"Those who do not know history are destined to repeat it. I think that was a wise speaker. Thank you, Mr. Speaker.

"The point is that if this budget is the first defender, we should let it go. Like those who are perpetual ascenders, we take into consideration what they have been doing and this budget is no first defender. As I've said, this is the eighth budget in the course of the famine that we have experienced in the State of Hawaii.

"I know, Mr. Speaker, in the course of this speech people will think this is negative, it's harsh, or perhaps, as the previous speaker said, we have given that impression. But, Mr. Speaker and colleagues, that's our job. Our job is to not be 'warm and fuzzy' and be 'yes men and women', but to point out where we can do better and where we can be better. And this budget leaves hungry where it most satisfies.

"The budget that I was expecting, Mr. Speaker, and the reason why I voted 'no' in the first instance is that this State of Hawaii needs an economic development budget. And this is no economic development budget. An economic development budget has a vision. It's driven by goals. It's driven by targets, aspirations, and the hope that beats in the breast of the people of Hawaii.

"Mr. Speaker, I'm not sure if too many people are going to get excited about this budget. An economic development budget would do that. It would excite people, saying this is who we are, this is where we're going, this is where we need to go. This budget, Mr. Speaker, in these hard economic times, does not create new jobs. It's not a budget that creates opportunities and new businesses. It's not a budget that creates a friendly business environment, streamlines government, or cuts government spending to a significant degree -- 1.3 percent. As my colleague to the left said, that's like taking a dime out of your wallet and saying you've really cut your spending big. We are a \$12 billion enterprise, Mr. Speaker.

"More so, this budget reflects our aimlessness, not knowing who we are and where we're going. And I think I've spoken on this floor a number of times in the beginning of the session, saying that this is 'Alice in Wonderland' stuff. If you don't know who you are and where you're going, any road will get you there, Mr. Speaker. And we've lived off of our good looks for so long, we're starting to become aimless in this budget. We're trying, and technocratically and bureaucratically say we have done some good things. I would also warn, as the Chair of the Budget Committee warned, that those who would say that this is the largest budget cuts ever, you must remember two things.

"Number one, there's never been a budget cut in the history of Hawaii. And number two, after we've choked our people with tax after tax for three decades, we have the audacity to say we're relieving you of your taxes when all we're doing is taking off our shoes as we continually step on your neck. The fact of the matter is, we have been and remain the highest taxed people in the nation. This budget does not change that nor do the people of Hawaii believe that this is the biggest tax cut ever.

"The best thing I can say about this budget is that it gets us through another year. With that, saying that our past seven budgets have been basically on the same wavelength with wishful thinking, thinking that the economy will turn around if we just get by one other year. If we can just do it the same way that I think some cows will go out to the pasture in order to get enough sustenance to come back the next day. And we're living day by day by day.

"And as the the Chair of the Budget Committee noted, DCCA has a cut of 55 percent, Mr. Speaker. It gives one the impression, superficially, that hey, we've really cut DCCA back. No, we've simply dipped into special funds. We've cost shifted. And, Mr. Speaker, that's one of the major characteristics of this budget. It has cost shifted and it has siphoned money from one part of the government into another in order to make again a budget need itself and make it balance.

"One of the worse things, Mr. Speaker, this budget is not, and one of the things that we have not admitted, but yet we'll have to admit as November comes around, that the cost shifting..."

Representative Meyer then yielded her time to Representative Ward.

Representative Ward thanked the Chair and continued, stating:

"That the cost shifting can make sure that we market correctly the State of Hawaii which is a good goal. It takes money from the counties, which will then take the hands of the Mayors in our four counties, and possibly,

potentially and really, and probably for sure, will raise the property taxes of the people of Hawaii."

The Chair interrupted Representative Ward, stating: "Representative, if I may correct, that is not relevant to the budget. There is another bill that will be coming up and you can speak to that measure at that time."

Representative Ward continued, stating:

"I was predicting the future on that one. But Mr. Speaker, I ask you: where are the economic reforms that the Republicans have been asking for, for years? The Minority Leader just spoke of those. The example of the economic reforms that I called for in 1994 called for ethical reform, education reform, and economic reform in the form of the three 'Es', and we've got the three 'Gs' of guns, gays, and gambling. The point is, we've got no economic reform.

"In later remarks in 1996, I said we must stop growing government and unleash the entrepreneurial energies of our private sector. This budget does finally stop growing the general fund. In fact, it's a 1.3 negative but, Mr. Speaker, in comparison to the 30,000 jobs that the private sector has already lost and perhaps the couple hundred jobs that this bill may, through its cuts, finish, the Governor Waihee warm body policy is alive and well.

"Mr. Speaker, I ask again, where is the economic development budget that we need in the State of Hawaii? Where is the releasing of the entrepreneurial energy in your beginning speech on our retreat, when we went to Makakilo and Barbers Point? Where is all that optimism about what we can do for the economy? I contend we will not have an economic development budget for the State until we have entrepreneurial vision for our future. Mr. Speaker, I know time does not allow me to elaborate on that, but we have to get out of mediocrity and underachievement and going on a day by day adhoc, short-range, bureaucratic, reactive, rather than future visionary, pro-active and entrepreneurial, Mr. Speaker.

"I also certainly regret that we do not have elements of Representative Case's cuts in here nor the Republican cuts. We don't have audits for departments nor funding for the legislative analyst of which I've spoken probably seven times on this floor for. If we're going to get our numbers together so our budget is correct, we need to fund the legislative analyst. That's one thing conspicuously absent in this budget.

"Mr. Speaker, it is unfortunate that we are able to only get by because we have such great potential, we have such promise. Mr. Speaker, the point is, we can do much better. We have done better in the past, and we must try better for the future to be all that we are.

"Thank you, Mr. Speaker."

Representative Pendleton then rose to speak in opposition to the measure, stating:

"I ask that the remarks of my distinguished colleague, our Republican Leader, be entered into the Journal as though they were my own," and the Chair "so ordered." (By reference only)

Representative Pendleton continued, stating:

"But I would like to add just a few remarks, Mr. Speaker. I rise in opposition to this measure for one primary reason, but let me explain that reason by pointing out four separate numbers. The numbers are 4.3 percent, 4.1 percent, 1.3 percent, and 33.8 percent.

"Mr. Speaker, when it comes to the operating appropriations, as I read the bill for fiscal year 1997-98, we will be reducing the budget by 0.1 percent. Granted, it is a move in the correct and right and appropriate direction. However, I think at this time that is probably a little too small of a step in the right direction. If we look at other businesses facing the same kinds of economic challenges we are facing, for example Queen's Medical Center, which is reducing by a number of percentage points, one figure marks it as 6 percent, our 0.1 percent for fiscal year 97-98 seems a bit small.

"The 1.3 percent, Mr. Speaker, that is for fiscal year 1998-99 for the operating appropriations. We are in fact reducing by 1.3 percent in that particular fiscal year. However, the other two numbers I brought up concern me. 33.8 percent -- that is the amount of increase to CIP, specifically..."

Representative Yamane then rose on a point of information, asking:

"The percentages are percentages of what -- a dollar amount, or what budget?"

Representative Pendleton continued, stating:

"That was a percentage in change in the budget. The 33.8 percent increase in CIPs for fiscal year 1998-99, Mr. Speaker, is what causes this budget to actually grow in terms of total appropriations. For fiscal year 1998-99, we have an increased figure of 4.3 percent because of the increased CIP spending.

"Mr. Speaker, my understanding is that whether we are spending tax dollars we presently have, or whether we are going to be borrowing money to spend it, we really need to be looking at truly and substantially and significantly downsizing government rather than growing government in this manner. For those reasons, Mr. Speaker, I have to oppose this budget. Thank you."

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

"I was thinking that I'll be hearing something about the Republican's plan for the economy. And I'm hoping to hear more specificity regarding how they would have balanced the budget. Early on this session, Mr. Speaker, we heard some comments and some ideas, but I don't hear them again this afternoon. Instead, perhaps they've finally come to the light and upon examining their own numbers..."

Representative Whalen then rose on a point of order, stating:

"I'm not sure if this speech has to do with the bill or his own personal opinions."

The Chair responded: "Representative, maybe we should stick to the budget, but the Representative is digressing somewhat, giving a historic perspective, but so did the other speakers, so if you don't mind."

Representative Kawanakoa then rose and stated:

"Mr. Speaker, if that was a question, I'd be more than happy to answer."

The Chair responded: "Representative, you're out of order."

Representative Kawanakoa responded: "Well, if you're going to direct a question..."

The Chair responded: "You're out of order."

Representative M. Oshiro continued, stating:

"Mr. Speaker, I just had to digress a bit to put some context into the words that have been expressed this afternoon by my colleagues across the way over there. But then it just dawned on me, Mr. Speaker, that one of them stated that our job is to be harsh. And I thought about that and I thought about what's been said on this floor in these debates. And I thought, well, if their job is to be harsh, then they've certainly reached that objective. But then I thought about it further, Mr. Speaker, that their job is probably not to be correct, not to be honest, and not to be responsible. So now I understand what motivates them, and because of that I can sit down now after expressing my support for this bill.

"Thank you."

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

"Thank you, Mr. Speaker. I know it seems like eons ago when we started our journey at 30,000 feet, and now we're barely clearing the treetops. And it's unfortunate that because of the controversy over an increase in the general excise tax, we chose to focus on one tree while failing to see the entire forest.

"When all is said and done, however, I thank God we did not choose to mortgage our children's future nor offer the needy as our sacrifice on the altar of economic recovery. It is frightening to hear proposals from those who would cut and freeze positions and programs willy-nilly for the sake of downsizing. And it's easy to harp on downsizing without saying that when you downsize you affect education, health and human services. And those are the three areas that I think government is all about. After all, if we don't know where we're going, any vehicle, even a jalopy, could get us there. However, if we strive to reach the summit, we need the right vehicle and we need to be willing to both sacrifice and pay the price for it.

"If I could digress a bit, Mr. Speaker, I took a tour last month which helped to open my eyes and overcome a kind of myopia that crises, politics, and this institution we call the Legislature, seems to inflict us in the heat of session. This tour was part of an NCSL meeting in Seattle, Washington. I took a tour of the Microsoft campus. And for those of you who aren't familiar with the Microsoft Corporation, it is a current computer software company founded by Bill Gates and Paul Allen in 1975 that has an annual net income of \$11.3 billion and they employ 22,000 people worldwide.

"Mr. Speaker and colleagues, with the pressing economic climate here, I must admit it was refreshing to visit a corporation with facilities and policies geared toward employee productivity with flexible hours and benefits, no dress codes and excellent compensation. Employee satisfaction at Microsoft can be gauged by the contribution of \$14 million to the Seattle community, of which \$6 million comes directly from the employees. There's \$45 million worth of software donated nationwide.

"When asked what drives a company like Microsoft, the standard reply for most employees is 'they have a shared vision and common philosophy.' Microsoft's vision -- 'a computer on every desktop and in every home' -- was first stated in 1975 by Bill Gates when less than 5 percent of U.S. homes had PCs. Today, that number is over 40 percent and growing. The common philosophy that drives all employees, from the hardworking gardener all the way up to Bill Gates at the top, is 'do whatever it

takes.' Employees focus on the mission and the objectives and work together to achieve a common goal.

"Despite one of the highest tax rates in the country, Washington State's economy flourishes. Washington State's budget and expenditures clearly reveal their visions and priority, as 44.5 percent of general funds is expended on education and 45.8 percent on health and human services. This clearly illustrates their investment into human resource. And this investment will bring long term gains. The State of Washington demonstrated their connection to economic prosperity that is not linked to tax rates, but to a common vision and purpose. And perhaps it is time, Mr. Speaker, to throw out the elitist approach of the ERTF and look at developing a grass roots consensus which clearly demonstrates our community's values and priorities.

"We as a community need to develop a process to determine the core government functions for health, education, human services, natural resource management, public safety, public transportation, and culture. We need to determine the community's role in these areas and to develop benchmark and measures of how we as a community, both government and the private sector, will achieve those benchmarks.

"Despite my lamentations over the cuts in health and human services, I see this as a real opportunity for our community to express their values about government's roles and responsibilities. In most simplistic terms and in closing, Mr. Speaker, I ask you and my colleagues when we adjourn sine die, what kinds of hope and vision will we be able to express to our young people? How will we instill hope and nurture their dreams so that they will stay to make Hawaii a better place? As we move toward the 21st Century, let's use this point to take off and soar again to 30,000 feet, to peer into the future for the kind of Hawaii we want for our children, our grandchildren, and indeed for the future generations to come. And let's do whatever it takes to get us there.

"A few years ago, I was explaining our wonderful legislative process to a group of Kalihi students. And at the end, one kid raised his hand and asked: 'that's all well and good, but what are you doing for our future?' That is a question we all need to ask ourselves.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Sometimes watching the end of session and watching the 'horse trading', one wonders whether a unicameral system wouldn't be a neater, more efficient system. But I'm very pleased to have worked on the Finance Committee, and I admire the hard work done by the staff and legislators who really put in some long hours. Despite the hard work by the staff and legislators, sometimes the synergistic end result is worse than the individual parts. The total budget in this case is larger than the individual House or Senate budgets.

"The total operating and CIP budget this year is 4.3 percent bigger, thanks in part to a \$371 million or 33.4 percent increase in the CIP budget. I think a Majority member had asked for that specific dollar amount.

"Operating fund cuts amounted to less than \$74 million, which is only 1.3 percent less than figured last year. General fund cuts totaled only 3.4 percent or \$104 million less than last year's budget.

"Many programs will now be funded by special funds or by new and increased fees, which will be charged in the coming fiscal year. Some of the programs include: quarantine, the milk program, State I.D., campaign spending, State Foundation on Culture and the Arts, Notaries Public, boiler and elevator safety, even bungee jumping inspection, ad infinitum ad nauseam.

"Our calculations show that we are cutting 42 warm body positions and we regret the loss. That's a lot of jobs you know, especially if it's yours. But in the large scenario, it may not be enough to make a difference in the size of government.

"The GOP has long espoused stimulating the economy with income tax cuts and reductions in State spending, but we have embraced the warm body policy and prefer to use attrition to pare down the number of personnel.

"Despite the loss of positions, this measure is based on insufficient reductions in income tax cuts and State spending. Therein lies my reservation. Though this is a step in the right direction, this and the lack in other bills dealing with workers' compensation, privatization, duplication in land use planning, and the business climate bills, it is not enough to stimulate our economy. When are we going to be bold enough to step out and do the right thing for our economy? For our people -- the people of Hawaii? Well, maybe in November. Thank you."

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

"Mr. Speaker, first of all, before I get into it, I'd like to apologize to the Finance staff for having to listen to some of this 'hot air' I guess.

"Our responsibility here is to come out with a balanced budget. The Chair and Vice Chair of Finance have done that, and they've been telling us that since the start of session. I guess their mathematics mean two and two equal four. Well, we found out that the Senate's mathematics is two and two might equal whatever it is.

"My concern tonight is that some of the rhetoric that I'm hearing on the floor says that maybe some of the people here have the same kind of mathematics as the Senate had. I've asked the Chair and the Vice Chair to come out with a budget that adds up, that balances out and does our job. Now if people are concerned about not having enough funding, need more tax credits, then how do we pay for it?

"Mr. Speaker, I've been here four years. This is my fourth session. Every year I've been here, all I know is that the General Fund operating amount of monies that the Chair and Vice Chair had to work with have gone down. Now I don't know where these figures from the Representative came from, but all I know is that every year the General Fund operating budget has been going down. The monies available to be spent by this Legislature have gone down. I'm not talking about federal funds, I'm talking about the funds that this Legislature has to spend.

"I appreciate the work of the Finance Committee and I appreciate the work of the Finance staff. And I still say, as far as the House going unicameral in Hawaii might be better, as long as we can keep our Finance Committee and our Finance staff. Thank you."

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

"Thank you, Mr. Speaker. I would like to commend Representative Say and his staff for their hard work. Representative Say is truly a hardworking and outstanding legislator.

"I would like Representative Ward's comments inserted into the Journal as if they were my own (by reference only), and I'd like to add a few additional ones," and the Chair "so ordered."

Representative McDermott continued, stating:

"Mr. Speaker, we hear all these figures tossed around tonight. I'm not real good with figures and I don't know, I don't think I've been using the new math. But according to our worksheet, we've only cut the budget 1.3 percent. While I appreciate the effort and the hard work, I think we can do a little bit better. I think we can do a lot better.

"Let me put it in perspective, Mr. Speaker. 1.3 percent. I weigh 250 pounds. That's like me losing 3.2 pounds. That's not even a belt notch, Mr. Speaker. You wouldn't even notice it -- good haircut, cutting the toenails. So I think we can do better. My wife tells me I can do better. So I think the budget can do better.

"Now I appreciate the genuine concerns from those who are concerned about human services. And I sat in the Human Services Committee and it's always brought up where you are going to cut -- where, where, where? The Minority is always grumbling about where you are going to cut. Well, it's my understanding that this 'baby' is still alive. My 'baby' -- the Rent Subsidy Program -- is still alive in the budget.

"Mr. Speaker, a couple living on Maui with a combined income of \$50,000 a year, two people -- a man and a woman -- can get rent subsidy. This is a blown up ad right out of the newspaper from the State. It says, 'applicants must be residents or intend to be residents of the State of Hawaii.' Now I would gladly take some of this money and put it into a spouse abuse shelter. The point I'm making is, I think we can do a better job managing what we have, and this is an example of where we can just do one.

"You know, Mr. Speaker, my wife and I with our three kids, we qualify for this program. Now if I went down and applied to the Rent Subsidy Program, and I know the Majority probably would love me to do it because I'd be run out of office in a heartbeat: 'State Representative applies for rent subsidy.' But I can apply for the program. This is an example of where our government is out of whack. This is a \$2 million a year program. I found my two million. There's 51 of us in here. If the rest of you find \$2 million, then we're well on our way. Thank you."

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

"Thank you, Mr. Speaker. I want to talk specifically about the education budget. First, I want to say that I do commend the Chair of the Finance Committee for asking the tough questions about the specifics that the Senate needed to come up with before embarking on the kinds of changes that the Senate wanted to make concerning our education system. What we're left with at this point is that the supplemental portion of the budget, the education budget, will need to come from current monies within the Department of Education. I think we had to come to this, but what we're doing is leaving it up to the Department itself to make those decisions.

"My concern is that I think we all share the desire to empower individual schools to encourage innovation and risk taking and to give individual schools the confidence that they need to do things on their own. If this is our goal, leaving fiscal decisions up to the bureaucracy will not get us there. It will not change our individual schools.

"Mr. Speaker, bureaucracies, by their very nature, look out for themselves first. And inevitably, in this situation, our schools will come second. While I believe we had to do what we did concerning the education budget, and I commend the Finance Committee for its fortitude, the lesson I believe that we've learned from this session is that we need to do something different in the next biennium. We need to by-pass the bureaucracy and directly strengthen the 242 unique schools in our State with resources and training and support that are dedicated specifically to them.

"For this reason, while I am supportive of the outcome, and I think we have maintained our school system in its present condition, I do look forward to the time when we can truly change our approach in funding our schools so that we get beyond just the status quo.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. We heard from the Chair of the Human Services Committee, and I am very supportive of his comments in support of his concerns about the need to take care of the people in our society that need that help.

"We also heard from the Representative from Aina Haina about the need for entrepreneurial stimulus in our State. And you'd think that both of those ideas are in conflict, but they really aren't. And that's what I believe we need to begin to focus on. The Chair of Human Services talked about Bill Gates. Bill Gates was an entrepreneur in the '70s, and the State of Washington fostered entrepreneurs and still does today.

"Their Secretary of State, which is like our Lieutenant Governor, actively recruits people from all over the world to come and be entrepreneurial in the State of Washington, helps those people operate and get going and that provides the tax break that is needed for the human service programs. I've been to the Microsoft campus too. That's the kind of stimulus that the Representative from Aina Haina is talking about: to foster that kind of entrepreneurial system in our State, and the human services programs will be fully funded with the results of the money that those entrepreneurs will bring into this State. So while you might think the two are in conflict, they aren't. That's my concern, that this budget doesn't look at it from a different perspective to get our State moving in that way.

"I have other remarks, Mr. Speaker, but I would like to ask if they can be inserted in the Journal. Thank you," and the Chair "so ordered."

Representative Thielen's additional remarks are as follows:

"The State Budget bill includes a multimillion dollar appropriation for the 'Miss Universe' pageant. With serious competing needs for this money such as spouse abuse shelters, programs for the disabled, it is appropriate to listen to the other side of the beauty pageant issue.

"Mike Leidemann explained as follows: 'Beauty pageants are offensive, humiliating, shallow and sexist. I thought we all agreed on that around 1970. Yet here we are, nearly 30 years later, with the Miss Universe pageant making its Hawaii debut, and I've yet to hear a whimper of protest or a smidgen of outrage. On the contrary, we seem to be bending over backwards to welcome this thoughtless throwback into our supposedly enlightened community.

'Did I miss something? When did beauty pageants quietly acquire a veneer of respectability? When did we start allowing them to refer to contestants in swimsuits as "delegates?" Did organizers think just because they started awarding "scholarships" that we'd believe they are closer to think tanks than meat markets?

'Image of Hawaii

'You can gussy up beauty pageants any way you want these days, but they are still just odes to superficial values. They give credence to just about everything wrong with our commercial, corporate society, from a billion-dollar cosmetics industry to heroin-chic models, from Barbie dolls to fen-phen diets.

'You think the Miss Universe pageant is somehow different, somehow better than the rest of these shows? Two words: Donald Trump. You think they aren't a problem? Think of 5 year old JonBenet Ramsey all dolled up before her death.

'I'm ashamed to say that my state and community seem proud to have this Miss Universe pageant in our midst. We spent \$3 million to lure it here. In addition, we're funding parades, parties, Washington Place receptions and the like. Is that really the Island image we want to share with the world? Are we so desperate for a few more tourist dollars that we'll pander pictures of Waikiki Beach side-by-side with these worldly beauties strutting their stuff? "Girls, girls," I want to say in a most paternal voice: "where did we go wrong with you? Didn't your parents teach you anything better than this?" I won't tell you what I want to say to parents who bring their kids to events seeking autographs of some future Miss. Universe.

'Shortcuts to success

'Participants in beauty shows are often smart, worldly-wise women who know just what they're about. Many of them will someday be doctors, teachers, scientists, whatever they want.

'But right now, too many are trading on their glamorous good looks, forced charm and whitened teeth, hoping to take an old-fashioned shortcut to success and pleasure. And too many of the rest of us buy our tickets or watch on TV, gleefully going along for the ride, making it all possible for them and so much harder for the rest of the women in the the world.'

"I hope we will listen and learn from Mr. Leidemann's comments. Thank you, Mr. Speaker."

Representative Fox then rose to speak in opposition to the measure, stating:

"I appreciate the opportunity to explain my position. Mr. Speaker, I think the business of handling this budget correctly is larger than the good work done by the Finance Committee Chair and his staff, which has really dealt with a difficult problem this year. I think that the parameter that we are given are basically set by the Executive Branch and that we have tried our best to work within them, but we need a new way of looking at how we handle our budget in Hawaii.

"One of the things that government can do to improve the economy, and it's one of the few things that we can do directly, is to lower the tax burden on the people of Hawaii. And I think we're approaching a general understanding that lowering the tax burden is a good way to improve the economy. If we take the money that's currently being spent by the government and we give it to the people of Hawaii, their economic activity, their spending of money, will generate new economic activity.

"Now, according to the Department of Business, Economic Development and Tourism, every dollar that is taken out of government and put in the private sector and given to people to spend generates a \$1.50 of new economic activity. And that's why if you reduce the tax burden on the people and allow them to spend money, you get economic growth. And you get economic growth fast. You get economic growth the next year. You get economic growth to finance health. You get economic growth to finance human services. You get economic growth to finance public safety.

"It's the basic spirit of the Economic Revitalization Task Force that we were exposed to six months ago. And it's that spirit that we cannot see at this stage in the process with such a small reduction in the budget. Basically, 3.4 percent in the General Fund, \$104.5 million providing for a tax cut of only \$54.5 million overall, that's the net tax cut, and I'll get into that more when we discuss the tax bill, and another \$50 million to deal with the decline in the Council on Revenues. That seems to basically account for the General Fund.

"We've been asked repeatedly to talk about how to pay for a tax cut. Repeatedly we have offered the same message that hasn't been directly refuted at any time. Fifty-five percent of the budget goes for personnel expenses direct and for benefits and for retirement. So if you want to cut the budget, you have to reduce the number of people who work for government. There's no real other way to do it. That's the way to cut the budget.

"The figure the Governor has supplied to us tells us that we can just deal with the people who leave government every year. And we can replace all the teachers and we can give all the money to the University of Hawaii that's needed to take care of faculty who leave. And they can spend that money however they want because they're getting autonomy and they should be able to spend it any way they want. We set those numbers aside. We've got 1,700 other positions in government that empty out every year. If we don't fill those positions, we save \$80 million.

"If we used attrition for just one year, we could get the tax cut we need, Mr. Speaker, to change a state. And I don't pick that phrase idly -- 'to change a state.' It's what your picture and the picture of the other people in the Economic Revitalization Task Force said last October that we had to do. We had to change a state. Mr. Speaker, we do need to change a state, and we do need to do it in 1998.

"Thank you, Mr. Speaker."

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

Representative Lee's remarks are as follows:

"The State Budget embodies our efforts to come to grips with our economic stagnation, and changes as Hawaii enters the 21st century.

"The budget gives the highest priority to education. The budget for the Department of Education was left intact and the bulk of capital construction is given to school facilities.

"The budget also meets the needs for health and safety. The State will be able to comply with the *Felix v. Waihee* consent decree with the appropriation of \$15.6 million for mental health services to children. Until a new prison is built, an additional 300 inmates will be transferred to the mainland at a cost of \$5.4 million.

"The concerns of the people of Central Oahu have been addressed by the appropriation of \$200,000 for the design and construction of a medial strip on the H-2 from Mililani to Wahiawa to provide additional protection for the safety of motorists. Sadly, this is after the fatal crash of a young mother and her child on the H-2 near the Leilehua Golf Course.

"To prevent future accidents at the intersection of Kamehameha Highway and the Leilehua Golf Course Road (where there have been several fatal occurrences), the budget provides \$700,000 for the design and construction of a traffic light.

"Pedestrian safety is also a high priority. The CIP budget provides \$100,000 for planning a sidewalk on Kamehameha between Meheula Parkway and Kuahelani Avenue. This sidewalk is adjacent to the new Mililani Post Office and would allow customers to walk to the new station safely.

"Funding is also present for the design and construction of phase two of safety improvements to control hillside erosion on Kamehameha Highway from Kipapa Gulch towards Mililani.

"The general fund budget represents a decrease of 3.4 percent, or \$110 million, from the previous year. By increasing fees, raiding special funds and raising the tourist tax to 7.5%, the overall budget is \$48.6 million lower than the previous year.

"In addition to the budget, for us as individuals, the biggest impact will be the cut in personal income tax. The top rate will drop from 10% to 8.25% in four years and will kick in at \$80,000 instead of \$41,000. With other cuts, the cost of the income tax decrease is estimated at \$752 million over four years.

"What we did not do is also very important. We did not raise the general excise tax at this time, something I have had continued reservations about doing. If we ever do, it should be for a specific purpose--that is for the improvement of education.

"We did not cut corporate or franchise taxes. These are taxes on large corporations.

"We did cut taxes for the small guy. Small business generally pays no corporate tax--paying income tax on what they earn. The Democratic Majority returned to its core philosophy--caring for the 'little guy'.

"Mr. Speaker, this is my first term. It was only two years, but I can honestly say that it has given me an incredible experience.

"The Advertiser editorial this morning stated: 'This tax package deserves applause as an effort to clean up our income tax system and offer some relief.'

"But the editorial also said: 'The larger goal, however -- restructuring State government and making bold

changes designed to prepare Hawaii for the 21st century -- remain elusive.'

"I don't agree that is elusive. That is too judgmental. The goal will be met in the future, and I am hoping to come back next year to be part of that future."

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

"Mr. Speaker, I, too, would like to commend the Finance Chair and Vice Chair, and the members and staff for doing an outstanding job in crafting a very responsible budget.

"The budget does cut government, perhaps not as great as the Minority members would care, but it's responsible because it does meet the needs of the people. Since 1995, government has been cut. Every single department in the State except for education and public safety has been cut, some by up to 50 percent. Some of the departments are at bare bones operations now.

"We also need to keep in mind, Mr. Speaker, that there's again a lot of misinformation going on, that people say that the government is too big. And yes, there is room for efficiency and perhaps continuing to make it more efficient and downsize the number. But the actual fact is that the State of Hawaii is the only State in the union that takes care of such needs as education, health, and human services, that in other states those matters are handled at the county level.

"So if you want to pick a true reflection of the size of Hawaii's government, you must compare the local and state governments. When you do that and you compare that with other states -- their total of local and state governments -- we are number 23 in the nation, and declining. So we're not overly excessive as many claim that we are.

"Also, in reference to some of the comments made by the Minority members regarding the excise tax, I think it was very responsible of the Finance Chair and the Leadership to keep the excise tax matter as an option in deliberations with the Senate. The fact of the matter is that, that tax would have resulted in the largest tax decrease in income taxes for the people of our State of Hawaii. Now that we don't have that increase, the tax cuts are going to be much less than what was originally intended.

"Also, we need to keep in mind that we are cutting taxes, and this is still a major tax cut for the people of the State of Hawaii. The vast majority of the states on the mainland actually increased their taxes in their economic decline when Hawaii's economy was expanding.

"Thank you, Mr. Speaker."

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

"I'm in favor because we didn't slash the DOE budget. We didn't have a GET increase. We still have some tax reductions which, by the way, is still the largest in the State's history because it's the first one in the State's history. And we still have some stimulation through CIP.

"But, Mr. Speaker, let me tell you a story. There's a story told of a Texas oil man who put much of his fortune into drilling a certain well, but he finally gave up. The person who bought the well drilled just one more foot and reached a gusher.

"This body has done a lot of drilling this session, but this budget is still short. It doesn't go far enough. We didn't reduce government inefficiencies enough. We did not reduce regulations enough. And we didn't lower taxes enough. Although there is a modest tax relief in this bill, think of the economic gusher we would have had and could have had and could have unleashed if we had only drilled a little deeper. But it is a help. It's a step in the right direction.

"If we expect to stimulate the economy, it's certainly not going to be by producing the same budget that we did last year or the year before and the year before that. We will stimulate the economy some through the CIP construction projects and through the 150 percent of money that gets recycled through the economy as a result of those. But this alone is still not enough.

"This year called for us to drill deeper, but we didn't, so don't expect a gusher, Mr. Speaker. We owe the people of Hawaii more. And I believe they will continue to let us know that. I have high hopes for the future of Hawaii. It is a great State and it can be even better, but we have to do our part.

"Thank you, Mr. Speaker."

Representative White then rose and stated:

"Mr. Speaker, I rise in support of this measure. As the Minority so rightfully points out, it is their job to challenge our decisions and to keep us on our toes. But I think they would accept the notion that in economic doldrums our responsibilities don't lessen, they grow. Education needs grow as our population expands. Our health needs grow as our population ages. We've got welfare growth as people lose their jobs. And we've got public safety needs that have to be addressed on a continuing basis as crime grows in a slacking economy.

"With that said, we need to look at the fact that our budget, even though all of our responsibilities have grown, our budget has actually gone down. And I take a little exception to the use of the total fund comparisons that the Minority uses because they leave out a very important fact, Mr. Speaker. That is that over the last, actually many years, our federal funds have grown substantially. That's obviously a part of our overall budget. And when you look at the general fund, comparing fiscal years 96-97 with fiscal years 98-99, our general fund has dropped from \$3.25 million to \$2.9 million. And for federal funds, those have increased from \$744 million to \$890 million. So it's not terribly fair to use the figures that they were throwing out in isolation.

"I would like to mention that as they said earlier in the session, they were out to bring some private sector folks in to take a look at how some of the operations are handled. I think from time to time we do need to look at how we are running government. But that said, we on the Finance Committee -- every member of the Minority, every member of the Majority, that sit on the Finance Committee -- know very well that this is a product of not only our own deliberations in the House, but this is a product of an agreement with the Senate. And until such time as certain things can change to help us save money through efficiencies, which the House has continually passed over to the Senate, we're simply not going to be able to see the reductions in our budget that we would like to hope for.

"Until we see our ability to eliminate such practices as the RIF procedure that allows people a salary for life when they found somebody on a much lower salary and keep their pay at their current level, until we can establish a reduction in the overlapping of civil service laws with

collective bargaining agreements, we're not going to see the efficiencies that we need in our personnel. We have a lot of very hardworking, very dedicated employees throughout the State, but working side by side with these hardworking people are some that 'skate.' And we have very little ability to change that mix.

"I think this budget, Mr. Speaker, sets a very positive tone to move in this direction. Withholding of the collective bargaining increases and the passage of the income reductions, as we have done or are proposing to do later on this evening, we are sending a very strong message to the public employees that the dance is over. We all have to work together to cut the cost of government and that means we have to do our job. We have to be willing to stand up and take some hits, but they do too. They can't be expecting all the very, very healthy benefits that they've got that are far in excess of those in the private sector. And maybe it's time for them to look at this from the standpoint that if they're going to expect increases, they may have to give up some of the benefits.

"Mr. Speaker, I think this is a very responsible budget. I think this is a budget, and later on we have measures that will set the tone, but I hope that the Administration will take advantage of and make use of it to, hopefully, renegotiate some of those things that we were not able to get passed through the Senate over this past session. I think the House has taken many, many responsible positions. I think the Minority recognizes that, and I hope that their comments this evening are directed more at the other chamber than in ours.

"Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I was hoping to hold off, but if we're going to start the second round now, I guess I have to get some comments in. I just had a few things I wanted to say.

"First of all, to the Chairman of the Finance Committee and his staff, just my deepest Mahalo. They have done a wonderful job. I was really concerned, as my comments on the first go around had mentioned, I had some serious reservations about the budget as it related to the health issues. And many of those issues have, in fact, been addressed in the final outcome. And as I sat here and I heard some of the comments, I wanted to reflect upon some of them.

"I keep hearing members who so readily offer criticism and talk about running government like a business. As the Chair of the Health Committee, I don't know of any other business that has to take all comers at all times. It would be nice for government to simply say we have a bottom line and follow that bottom line the way some businesses are able to do. We cannot, and I think the community out there realizes that and understands that.

"I also wanted to reflect on some comments about how one particular political group or another could do a better job. But I really again think that the community out there doesn't really care what party you belong to. They want to see responsible people put together a responsible budget and provide some vision. I believe we have done that. I don't think the work is over. Surely there are things in this budget that I could focus in on and criticize, but as my colleague to my left from Kalihi had talked about, whose comments I wanted to also have inserted into the Journal as if they were my own (by reference only), he talks about not seeing simply a tree, but to look at the forest. I agree with that. I think we

have done that in these very difficult times. We have more work cut out for us without question and more improvement that can be done. So I welcome the criticism that is provided, that is done so with the interest of the public in mind and not simply to politicize this budget.

"Thank you, Mr. Speaker."

The Chair then stated: "Thank you, members. I just want to remind the members that the hour is getting late and if you could cut your speeches short. Thank you. Please proceed. It wasn't meant for you, of course, Representative Jones."

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

"Thank you, Mr. Speaker. I wasn't going to say anything but I felt I better write some notes and say something, because I stand in strong support of this budget bill.

"Mr. Speaker, House Bill 2500 reflects again a very austere budget. The budget process again that was followed by our Finance Committee, the Chair, the Vice Chair, and all the hardworking members of that Committee that really didn't get much sleep over the past two weeks, they really did a good job. The process was again, open, fair and it really did its job.

"Mr. Speaker, I sit on the Committee on Agriculture. Our programs took a hit like the rest of the State, and that's understandable. We took a reduction of about 16 percent in general funds. And I keep hearing this 1.5 percent cut in the budget and I'm wondering, I don't know where that figure came from. Maybe they're talking about the overall budget which includes federal funds, special funds, as well as general funds and trust funds.

"But if the reduction, when you look at it in total, only reflects a 1.5 percent decrease, then the Finance Committee must have done a real good job in maintaining the federal funds and the special funds and other trust funds that come to the State to take the place of the general fund reduction, which was much more than the 1.5 percent cut that I hear floating around. Because of the State's projected general fund shortfall and the anticipated GET increase that we were counting on to save a lot of the programs, literally the Finance Committee did a good job in saving a lot of the programs.

"Mr. Speaker, we cannot look at the budget in a vacuum. The budget must be viewed in total. Not only must we look at the budget, but we should look at the other special programs that were passed by other special legislation. And when you look at the total picture, Mr. Speaker, programs that were financed outside of the budget were dependent to a large extent on the financial plan that was set up for the budget.

"These other programs will have a tremendous impact in stimulating our economy. Some of the bills that were passed in the Agriculture Committee included the following: there's a \$10 million. . . there will be as soon as we pass it today."

The Chair interrupted Representative Jones, stating:

"Yes, Representative, you would want to refrain from that and just limit yourself to the budget."

Representative Jones continued, stating:

"Part of these that were passed include the slaughterhouse to keep..."

The Chair interrupted Representative Jones, stating: "Yes, Representative, please refrain yourself to the budget."

Representative Jones continued, stating:

"The bottom line, Mr. Speaker, is that we have to look at the total package. And when you look at the total package, I can't help but admire the people on the Finance Committee, and again on both sides of the aisle, they worked hard. But I think on one side, they work a little bit harder.

"Thank you, Mr. Speaker."

The Chair responded: "Representative, you cannot be biased."

Representative Meyer then rose and stated:

"I did yield my time to the Representative from Aina Haina, but I don't think he took all of my time."

The Chair responded: "He took all but one minute."

Representative Meyer continued, stating:

"I'm glad you were watching the clock. I rise in support of the budget with some small reservations, which I'm not going to express here. I'll have my remarks inserted in the Journal," and the Chair "so ordered".

Representative Meyer continued, stating:

"But I wanted to take this opportunity to thank the Chairman and the Vice Chair of the Finance Committee for the fine work that they did. And to say that I feel it's a privilege to serve on that Co-committee and a tremendous challenge. And I also want to say how wonderful the staff is and send my Aloha across the room. Thank you, Mr. Speaker."

Representative Meyer's remarks are as follows:

"Mr. Speaker. I rise to speak in favor of HB 2500 with reservations. The reduction in general funds of \$104 million was too little. Most of the cuts were accomplished by shifting general fund positions to special funds or revolving funds. Revenues were inflated by raiding special funds making smaller contributions to the retirement fund as well as other bookkeeping maneuvers.

"I am very concerned that by putting off payment of collective bargaining contracts already negotiated, we will be setting ourselves up for huge deficits next year. The size of government must be reduced, yet the resistance to taking the necessary steps in that direction is persistent and unrelenting. If we continue in this manner, we will soon be faced with mounting deficits that are just as persistent and unrelenting as the resistance of this body to necessary change.

"We need a budget bill, and this budget bill does some of what is needed. It is at least a small step in the right direction. For that reason, I vote 'yes' but with reservations as previously stated."

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

"Mr. Speaker, I have no reservations on the budget bill, but I do have some trepidations about what I see for the future. And I speak mainly, Mr. Speaker, towards

the item that, as your Chairman on the Public Safety Committee, I have some jurisdiction over.

"In the years that I've been your Chairman, I have been hearing from your Budget Chair and from others something that I'm not really that proud of. But it is a reality, and that is the fact that your Public Safety Department's budget has been escaping unscathed and, in fact, growing, year in and year out for a couple of reasons. Our get tough legislation which is all due and necessary to keep our families and our constituents safe, and the fact that we have to live under this consent decree, which I hope we will get out from sometime this year.

"But as your Chairman on Public Safety, I'm cognizant of the budget as relative to my department. And I will do what I can to try to, not because of budgetary concerns and our economy, but to pass on and to encourage efficiencies in that department so that we can slow the growth and at the same time meet our responsibilities relative to public safety.

"I also, Mr. Speaker, want the words of the Representative from the North Shore inserted into the Journal as if they were my own," and the Chair "so ordered." (By reference only)

Representative Garcia continued, stating:

"I come from the private sector in my other life and I know full well that at my bank, I know that there are people there that cannot do the kinds of things that we empower our people in the Health Department, or even in Human Services do the kinds of things that they have to do because that is what government is supposed to do. Thank you very much, Mr. Speaker."

Representative Ward then rose to speak in rebuttal, stating:

"Mr. Speaker, I believe there was a misquote from the Majority Floor Leader that I said that I rose to be harsh. I simply wanted to point out that our role is to be pointing out a better way, a different way, a way that otherwise if we were 'yes men' and 'yes women', the GE tax would probably be passing today.

"Another example of that role is when the Chair of the Budget Committee says that we have always had budget cuts from 1992 on. And then the Majority Leader stands up and says since 1995. Our job is to have checks and balances. Our job is to give the other side of the story, Mr. Speaker. I think that's a very vital role.

"And let me say one other comment that the message certainly isn't, if we say, well this is a good budget, that's a bad budget. That's really not what this issue is about. It's hard economic times and we need the right budget. And that's one that is pro-development, pro-entrepreneurial, and pro-active. This is a good budget, but it's the wrong budget. It balances, therefore, it's good, but it's the wrong budget because the times are tough, and we needed an entrepreneurial budget.

"Last thing, Mr. Speaker, on a personal note, thank you for letting me finish my speech in its first original form. Thank you."

Representative Kawanakoa then rose to speak in rebuttal, stating:

"I'll be very brief. I have to just clarify some remarks because, no, we're not just here to throw a wrench in the works. We're here to offer new ideas, new direction, think outside the box, come to the table with good ideas.

None of these ideas are just ideas we think up. Our ideas come from other jurisdictions.

"I need to correct the Majority Floor Leader when he says that we haven't done anything. We haven't laid out a plan. We didn't give the numbers. We have given the numbers. And I'll just point you to other jurisdictions, like California, who are taking corrective measures and have turned their economy around to one of the most prosperous economies in the world. The seventh largest economy today creates 1,200 new jobs everyday. It's important that there are other views. And I'm glad to see that we're beginning to move in a direction of reducing the tax and spend mentality and starting to look towards reducing the cost to reducing the waste in government, Mr. Speaker.

"I also have to note that the good Representative from Maui pointed out that we need to look to the private sector. For goodness sakes, my entire life, this government has done nothing but grow. What does this government know about downsizing? Maybe we should look to the private sector. And this Minority Caucus offers such a plan to have our 'diamond action teams' and our 'heart and compassionate teams' to come into government and help your department heads make the changes to otherwise reduce the cost and waste.

"There were some other points that were made about: we have to take care of our needy, and that health care is not to be run like a business. I agree there is no bottom line when it comes to taking care of our needy and health care, but we can do it in the most efficient manner. And that manner is to take a business-like approach to fulfilling those obligations to the people of Hawaii.

"You know, it was noted that there's a lot of 'hot air' or rhetoric here today from the Minority. But, Mr. Speaker, the families who have left our islands because they don't have a job, that's not rhetoric, that's reality. And that reality is due to the lack of leadership and the change and the lack of taking those bold initiatives and changing the direction of Hawaii.

"You know, I just have to also simply note that the Majority Leader noted that this is our largest tax decrease and that we should have left the GET option on the table for longer as part of the process. I guess it was part of the negotiations. The problem with that is we spent the entire session debating whether to or whether not to increase the excise tax. If we were to spend more time on trying to find the waste and trying to improve our departments so that they can provide better services, making government smaller and better, Mr. Speaker, then we could have come forward with true economic stimulus by reducing taxes for the people of Hawaii.

"I just simply have to. . . I can't even fathom the argument that if we had the general excise tax still on the table, if we were to pass that measure, that we would have had a greater decrease in income taxes. This is the largest increase in the State of Hawaii's history. How can we argue that? You're going to decrease income taxes, but you're going to increase excise taxes and, therefore, look at the measure there and it wouldn't have been a total reduction in taxes. Taxes are taxes -- one is income, one is GET. It's still on the people of Hawaii.

"I just had to make those clarifications, Mr. Speaker. I still speak in opposition to this budget as I have for the past three years here at the Legislature, because we see nothing but government grow. We haven't taken the corrective measures to right size government, to do away with the waste and inefficiencies, and provide the needed services for the people of Hawaii at the best price, the best quality and in the most efficient manner. And for

those reasons, Mr. Speaker, I'm still going to vote 'no' one last time. Thank you."

Representative Kanoho then rose and stated:

"Thank you, Mr. Speaker. I had not planned on speaking, but I wish to speak in strong support of the budget. Knowing that Chairman Say and Vice Chair Kawakami would express my total sentiments on the budget, I had not prepared any written remarks.

"However, the preparation of the budget, as is true with any task when completed, such as attending a concert or any kind of performance, at the conclusion you develop some sense about it. You feel good. And I feel good about this budget. I feel proud that my name is on it as a member of the Committee.

"We all know and appreciate that the preparation of the budget was a most difficult task. And in fact, the House Finance Committee did prepare a conference draft which was submitted to the Senate twelve days ago. And perhaps that draft would have received the total support of this body. But as Representative White indicated, it takes the Senate to agree. And I think it's just amazing, simply amazing, that considering where we were less than a week ago, that we do have a budget which has been prepared in this form. And only to the credit of Chairman Say have we been able to provide the education budget without any cut whatsoever.

"True, we did not provide and could not meet the supplemental needs of the Department of Education, but we are proud to say that there is no cut in funds from the budget as it had been appropriated and presented last year. And we need to be proud of that because we all say and we all believe that education is number one. And there's so much more about the budget that we can talk about, but it disturbs me that there is so much opposing rhetoric. In this very difficult time we do need to tighten, and it's amazing that wherever proposed cuts have been made, that those cuts have also received objection. And so, Mr. Speaker, I say this is a good budget, as has been expressed previously. This is a very responsible budget, and I stand in strong, proud support of it. Thank you."

Representative Okamura then rose and stated:

"Mr. Speaker, I rise to speak in favor of the budget again. I just want a point of clarification, Mr. Speaker. I just wanted to make the point that Dr. Seiji Naya and other private sector people did review the Minority's economic proposals. And they indicated that their proposals would not have resulted in an economic stimulus and would certainly not have resulted in the creation of better jobs.

"I also wanted to clear a misinformation given by one of the Minority members who indicated that this would be the first time in Hawaii's history that we're cutting taxes. That is not true. In 1989 the State Legislature, in Act 321, lowered the income tax rate and we also increased the standard deduction amount. 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. 2500, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Final Reading by a vote of 45 ayes to 6 noes with Representatives Fox, Halford, Kawanakoa, McDermott, Pendleton and Ward voting no.

The Chair directed the Clerk to note that H.B. No. 2500 had passed Final Reading at 5:03 o'clock p.m.

SENATE COMMUNICATION

Sen. Com. No. 751, returning H.C.R. No. 251, entitled: "HOUSE CONCURRENT RESOLUTION CALLING FOR A JOINT SESSION OF THE LEGISLATURE FOR THE PURPOSE OF APPOINTING THE OMBUDSMAN," which was adopted by the Senate on May 13, 1998, was received and announced by the Clerk and was placed on file.

At 5:03 o'clock p.m., the House of Representatives stood in recess, subject to the call of the Chair, to meet in Joint Session with the Senate, in accordance with House Concurrent Resolution No. 251, to appoint the Ombudsman.

JOINT SESSION

The Joint Session of the House of Representatives and the Senate was called to order at 5:58 o'clock p.m. by the Honorable Joseph M. Souki, Speaker of the House of Representatives.

Representative Okamura moved that Ms. Patricia Mau-Shimizu be appointed Clerk of the Joint Session, seconded by Senator Ihara and carried, with Representatives Kawanakoa, Takumi and Whalen being excused.

At this time, Senate President Norman Mizuguchi assumed the rostrum.

Senator Mizuguchi then announced that the purpose of the Joint Session is to appoint the Ombudsman for the State of Hawaii, pursuant to Section 96-2 of the Hawaii Revised Statutes.

Senator McCartney then nominated Mr. Robin K. Matsunaga to the Office of the Ombudsman of the State of Hawaii for a term of six years, commencing July 1, 1998.

Representative Okamura moved that the nomination be closed, seconded by Senator Ihara and carried, with Representatives Kawanakoa, Takumi and Whalen being excused.

Senator McCartney then moved that the Senate of the Nineteenth Legislature of the State of Hawaii confirm the appointment of Mr. Robin K. Matsunaga as Ombudsman for the State of Hawaii for a term of six years, commencing on July 1, 1998, seconded by Senator Ihara.

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

At this time, Speaker Joseph M. Souki assumed the rostrum.

Representative Okamura then moved that the House of Representatives of the Nineteenth Legislature of the State of Hawaii confirm the appointment of Mr. Robin K. Matsunaga as Ombudsman for the State of Hawaii for a term of six years, commencing on July 1, 1998, seconded by Representative M. Oshiro.

Representative Marumoto rose and stated:

"It has been my privilege to have worked with Mr. Matsunaga for the past 10 or 12 years. When he was Clerk of the House Committee on Finance, I learned that Robin is very knowledgeable about State government. He knows who the players are, how the department works. He knows what 'closets' various 'skeletons' reside, and where the bones are buried.

"To lose that much expertise from the Legislature is unfortunate. We need it here. Therefore, we will truly miss Robin in these halls. But perhaps from his new vantage point, he will recommend needed legislative changes to us. He will do well there. We legislators and the public will benefit from his work and his future endeavors in the Ombudsman's Office.

"From the House GOP Caucus, good luck, Robin!"

Representative Okamura then rose and stated:

"Mr. Speaker, we have all known Robin for many, many years. He is a dedicated and committed public servant who has routinely gone out of his way, beyond the call of duty, to fulfill his responsibilities for this institution and to all of its members. Robin is honest, knowledgeable, caring, and above all he always operates with integrity, precisely the qualities needed to fulfill the responsibilities of the State Ombudsman.

"Mr. Speaker, with this appointment, the House has a huge void to fill. Robin's wise counsel, his easy smile, and his sharp wit will be missed by all of us. If there is any consolation, it is that our loss will be the people's gain.

"Robin, from all of us, congratulations and best wishes."

The motion was put to vote by the Chair and carried by a vote of 48 ayes, with Representatives Kawanakoa, Takumi and Whalen being excused.

The votes having been so cast, Mr. Robin K. Matsunaga was declared State Ombudsman.

Representative Okamura then rose and stated:

"Mr. Speaker, before we close this joint session, I would like to introduce the better half of the Matsunaga team, someone who has been most supportive and understanding with all the hours and days when Robin is never at home, and we certainly appreciate that. And that's Robin's beautiful wife, Tammy.

"Mr. Speaker, also in the audience are some of Robin's family members: his older brother Stewart and his wife Fay and their children Kelly and Lindsey are here; Steven was not able to be here. Also, his younger brother's wife is here, Mrs. Nadine Matsunaga. And finally, Tammy's parents, Mr. and Mrs. Mickey and Jean Fujino.

"Mr. Speaker, I also wanted to let the members know that Robin's parents aren't here. It's not that they didn't want to be here. This was totally unexpected and they already had plans to go to Las Vegas, but we know that they are very, very proud of Robin and wish him well. Thank you."

At 6:08 o'clock p.m., the Speaker declared the Joint Session of the House of Representatives and the Senate adjourned. (Representatives Kawanakoa, Takumi and Whalen was excused.)

Upon reconvening at 7:23 o'clock p.m., the Clerk announced:

"Mr. Speaker, I have two announcements for you and the members of this body. The first is I have been informed by a representative of the Senate President that the Conference Committee Report for House Bill No. 2500, HD 1, SD 1, CD 1, was adopted, and House Bill No. 2500, HD 1, SD 1, CD 1, has passed Final Reading in the Senate at 5:45 o'clock p.m. on this day. In addition, I have been informed by the Assistant Clerk of

the House that at 5:55 o'clock p.m. on this day, House Bill No. 2500, HD 1, SD 1, CD 1, has been duly transmitted by the Legislature to the Governor, pursuant to Article VII, Section 9 of the Hawaii State Constitution."

At 7:24 o'clock p.m., Representative Cachola asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:26 o'clock p.m.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 148 and H.B. No. 2710, HD 1, SD 1, CD 1:

On motion by Representative Say, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. 2710, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Final Reading by a vote of 43 ayes, with Representatives Arakaki, Cachola, Menor, Meyer, Takumi, Ward, White and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. No. 2710 had passed Third Reading at 7:26 o'clock p.m.

Conf. Com. Rep. No. 119 and H.B. No. 3446, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3446, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative M. Oshiro then rose and stated:

"Mr. Speaker, I rise in objection to Conference Committee Report No. 119, House Bill No. 3446."

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 8:31 o'clock p.m.

Representative M. Oshiro then rose and stated:

"Mr. Speaker, I'll be entering a vote of aye with reservations, and I ask that my written comments be submitted into the Journal," and the Chair "so ordered."

Representative M. Oshiro's remarks are as follows:

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

"My reservations to HB 3446 SD2 CD1, entitled: 'Authorizing the Issuance of Special Purpose Revenue Bonds for Not-For-Profit Corporations That Provide Health Care Facilities,' rest upon two concerns. The first has to do with the language of the bill itself, and the second, the testimony submitted in support of the bill.

"House Bill 3446, as introduced on January 29, 1998, Section 1 contained language referring to Kupuna Park, Inc. as the nonprofit entity to be assisted by the issuance of these special purpose revenue bonds. It also contained in Section 2, language whereby the sum of \$20,000,000 in special purpose revenue bonds could be used to benefit another Hawaii nonprofit entity established by or under the auspices of Kupuna Park, Inc. in the acquisition or leasing of land for, and the planning, design,

construction, and operation of, a senior housing community. I found this language to be somewhat peculiar in that we would legislatively declare another Hawaii nonprofit entity created by or under the auspices of Kupuna Park, Inc. to be in the public interest without knowing what that entity may be. Indeed, although we may have in the hearing record the representations of Kupuna Park Inc., through its representatives, Thompson Matheny Corporation, such blanket authorization leaves me concerned.

"Notwithstanding these concerns, however, I will refrain from final judgment and remind future legislators and the proponents of this bill that in written testimony presented to the House Committees on Health and Human Services, Cindy Thompson, President of Thompson Matheny Corporation, representing Victor Young (landowner) and Kupuna Park, Inc. stated: 'In addition, the land owner and project team have a long-term commitment to the project and are not seeking windfall profits.' Likewise, she also stated: 'The success of the project is not based on foreign or Mainland interest. This is clearly a project that will serve the senior citizens of the Big Island while creating construction and permanent health care jobs in the Hilo community.' As such, I refrain from final judgment and watch these projects progress as it seeks to serve the public good.

"My second concern is the factual misstatements that have occurred throughout this bill's passage, from Committee to Committee and from House to Senate. Mr. Speaker, I know that we all are disturbed when individuals come forward to testify before legislative committees and feel no compulsion to be truthful in either their testimony or their answers to questions put forth by Committee members. We make decisions based upon the information we receive. We base our judgments on a bill's merit or demerit upon representations provided to us.

"House Bill 3446 SD2, CD1, as introduced on January 29, 1998, contained language referring to Kupuna Park, Inc. as the nonprofit entity to be assisted by the issuance of these special purpose revenue bonds. In supporting testimony before your Committees on Health and Human Services on February 10, 1998, Cindy Thompson, President of Thompson Matheny Corporation, representing Victor Young (landowner) and Kupuna Park, Inc. made reference to Kupuna Park, Inc. as a not-for-profit corporation. The same was made to the House Finance Committee on February 23, 1998. The House passed the measure on Third Reading on March 4, 1998: 49 ayes, one voting no, two excused. The records of the Department of Commerce and Consumer Affairs, however, show that Kupuna Park, Inc. did not exist on either January 29, 1998, or February 10, 1998, or February 23, 1998, or March 4, 1998. In fact, Kupuna Park, Inc. became an officially recognized Hawaii nonprofit corporation on April 6, 1998, some ten (10) weeks after the bill was introduced. The Articles of Incorporation of Kupuna Park Inc. show as directors, Victor Young, Betty Young, and Cynthia D. Thompson; and as officers, Victor Young (President/VP) and Betty Young (Secretary/Treasurer). I do not know whether Cynthia D. Thompson is the same person as Cindy Thompson.

"This is not the case of some technical oversight. State law is clear that special purpose revenue bonds can only be issued for purposes serving the public purpose. Yesterday, in a memoranda to the Chair of the House Committee on Human Services and Housing, dated May 12, 1998, Ian L. Sandison of Carlsmith, Ball, Wichman, Case & Ichiki, the attorney representing Kupuna Park, Inc., made clear in writing that a conscious decision was made to avoid incorporation until such time as it seemed likely that the bill would go through and there would be a

clear necessity to form the nonprofit corporation. When the issue of formation of the nonprofit corporation was raised by the Senate Ways and Means Committee, I immediately processed the Articles of Incorporation with the Department of Commerce and Consumer Affairs. In short, a conscious decision was made to avoid formation of the nonprofit corporation until such time as the bill's passage was likely. Although I appreciate the legal cost involved in establishing a nonprofit, I cannot condone the misstatements made here. Indeed, to do so may send a message that this body will overlook factual misstatements. And to do so will surely demonstrate to others who come before the Legislature that they can do the same with little or no consequences for their actions, because the end will truly justify the means.

"For the reasons stated above, I vote in favor of the measure but with these reservations and concerns."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. 3446, SD 2, CD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 33 and S.B. No. 3248, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 3248, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 136 and S.B. No. 2633, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2633, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Say rose to speak in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Say continued, stating:

"I want to say that this is one particular measure, even though it's very small and innocuous, that will help the small business community in the State of Hawaii. Thank you."

Representative Say's additional remarks are as follows:

"This measure stems from the need to protect consumers who lease land.

"Your Conference Committee, through its deliberations, has amended this bill by deleting its contents and inserting the substance of HB 566 to incorporate the recommendations of the State Auditor.

"This measure will require all real estate appraisals to be performed by certified appraisers in accordance with statutes regulating real estate appraisers and rules adopted by the Director of DCCA.

"Furthermore, it requires the appraisers to comply with the Uniform Standards of Professional Appraisals Practice (USPAP) and other standards approved by the Director.

"It is the intention of this bill to ensure that appraisals of the fair market value of leasehold lands are determined through a fair and unbiased process. Therefore, I am asking you, my fellow colleagues, to join me in support of SB 2633."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2633, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 137 and H.B. No. 2680, HD 2, SD 1, CD 2:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2680, HD 2, SD 1, CD 2, pass Final Reading, seconded by Representative M. Oshiro.

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

"This measure is one of several that have to do with the general theme of the Legislature concerning education, which is ways of strengthening schools, liberating them to do all that they can to improve the quality of education for their students.

"Student-centered schools passed the Legislature back in, I believe 1992 or 1993. It's Hawaii's answer to the charter school movement. And over the years the two schools -- Lanikai Elementary and Waialae Elementary -- who have ventured into student-centered school status have had problems develop along the way. And this bill attempts to address several of those. They are primarily to do with the relationship between schools and the Department of Education.

"Among the changes, Mr. Speaker, are one that we are calling on the Department of Education, the Board and the Superintendent to provide information and technical assistance to student-centered schools and those who request information about student-centered schools. And we want the Department to take a pro-active role in attempting to establish and expand student-centered schools.

"Additionally, Mr. Speaker, we are saying that the Board of Education will represent student-centered schools in communications with the Governor and the Legislature clarifying who should represent these schools. We're saying that the Board, just as they would any other school, will represent student-centered schools.

"I want to focus my attention on two areas of the bill where I think significant improvements have been made as a student-centered schools law. One is concerning liability issues. As you know, Mr. Speaker, the student-centered schools form local school boards that are able to address a variety of issues, develop policies for the individual schools and have much more independence than the normal school has, but the members of the local school board have wondered what their liability is personally concerning decisions that they make. And we've clarified on page 5, Mr. Speaker, that 'the State shall afford the local school board of any student-centered school the same protections as the State affords the State Board of Education.' Hopefully, this will allay the fears of members who might sit on local school boards that they'll have that same protection of the State government.

"The other area that I wanted to address has to do with allocation. Since these schools operate on their own, we give them monies. How much money should we be giving

them? We've clarified that we're going to leave it up to the Legislative Auditor to determine how much these schools should get. And we've also clarified that the Legislative Auditor will come up with a figure based on a total per pupil expenditure. We clarify in subsection 2, on page 6, that the Auditor shall determine the appropriate allocation based on the total Department of Education general fund appropriation and per pupil expenditure for the previous year.

"There's been a lot of discussion, back and forth between the schools and the Superintendent's Office, on exactly how much they should be receiving to run their schools. And we're hoping that with the intervention of the Legislative Auditor that there will not be this problem any longer.

"Finally, Mr. Speaker, the law requires student-centered schools to do self-evaluations every year. We're suggesting that in the self-evaluations, that the schools themselves identify administrative and legal barriers that they have come across in meeting the benchmarks that they set for their schools. And we asked them to make recommendations as to how they might improve and modify the situation with the Department of Education to address those barriers that occur.

"For these and other reasons, as enumerated in improvements to the student-centered school law, I recommend to my colleagues that we support this measure. Thank you."

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

"Republicans are very interested in higher quality of education and we think student-centered schools, this measure before us, will help bring this about. We support decentralization and self-determination so we would like to see more of this come about. We're very happy to support small schools and we're mostly excited about schools-within-schools as we've seen work so well at Kapaa Elementary in Kauai. So I would urge everyone to support this measure. Thank you."

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

"The previous speakers have little for me to touch on that would be new. Only to say that we do believe that the community, the parents, the students, the administrators, teachers all working together, the staff also working together, can make decisions much better than anybody across town or even us, I'm sorry to say.

"So this is a step in the right direction. It codifies that these kinds of schools can exist. Not only will they exist and be tolerated, but they'll be supported and helped by the Board of Education, which I hope will long be elected.

"I want to thank you for allowing me to serve on the Education Committee. And I thank the Chair for moving this bill forward. There was a lot of discussion in Conference Committee on this bill but it's here before you today, and I urge you all to support it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. 2680, HD 2, SD 1, CD 21, entitled: "A BILL FOR AN ACT RELATING TO STUDENT-CENTERED SCHOOLS," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Ito and Tom voting no.

Conf. Com. Rep. No. 138 and H.B. No. 2990, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2990, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Mr. Speaker, each time this measure has come before the House for a vote, I have spoken in opposition. Recently, I circulated to members of this body a letter about the possible impacts to other farming areas throughout the State based on a study done for Leeward landowners, and a recent editorial by the Honolulu Advertiser. Mr. Speaker, I would like to submit both these items into the Journal," and the Chair "so ordered."

Representative Morita continued, stating:

"Mr. Speaker and colleagues, this purchase raises more questions than it answers. One can only speculate why this State is rushing into this purchase, why we are putting the cart before the horse, especially in these difficult financial times. Last week, we passed House Bill 1332 calling for an inventory and assessment of irrigation systems statewide. One would think this would be done prior to this purchase. We all agree that there should be a long-term commitment to agriculture by Leeward landowners, but we buy the ditch prior to having guarantees in place. This is a complex purchase involving tunnels, ditches, leases, appurtenant rights and other property arrangements, but only a cursory review has been performed instead of full diligence.

"The purpose section of this bill, lines 12 to 14 on page 1, states: 'Assurance of an adequate water supply is critical to the continued development of diversified agriculture on the island of Oahu.' The situation we failed to address is the permits held by Campbell Estate and Oahu Sugar to pump 50 million gallons per day of ground water for agricultural use. Agricultural economists have determined that to irrigate all the acreage that would be profitable to plant in Central Oahu would require less than 7 million gallons per day of water.

"Lines 16 to 18 states, 'The Legislature declares that it is not its intent to displace existing small farming enterprises...' Yet, we move hastily towards a decision that will affect the long-term viability of diversified agriculture statewide as indicated by the Leeward owners' own economic analysis.

"On page 2, lines 9 to 10, it states that the purchase is 'to ensure the continuation and expansion of diversified agriculture on the island of Oahu and protect the Pearl Harbor aquifer.' These types of statements, the pros and cons of this issue, have not been fully disclosed to this body. This is an issue that has moved through the process resulting in a decision and order by the Commission on Water Resource Management and subsequent appeals before the Court. With all due respect, this action by the Legislature just appears to undermine and head-off processes taking place within the Administration and judicial systems where all interests are heard, as meant to be, through the State Water Code, Environmental Review and Hawaii Constitution.

"Passage of this bill is tantamount to the Legislature acting as co-conspirators with the Governor to undermine Hawaii citizens' right to due process.

"One cannot deny that the Governor has been unhappy with the Commission on Water Resource Management's decision on the Waiahole Ditch water allocation. However, it is too much of a coincidence that the

following has occurred, affecting a systematic dismantling of the Commission on Water Resource Management.

- (1) The removal and dismissal of the deputy attorney for the Commission.
- (2) The appointment of the deputy director to the Public Utilities Commission.
- (3) The possibility of the deputy director's position being filled by the former corporate counsel of Amfac/JMB Hawaii, the corporate parent of Waiahole Irrigation Company, owner and operator of the Waiahole Ditch.
- (4) The former president of Waiahole Irrigation Company who is now the executive director of Agribusiness Development Corporation.

"Finally, it is too much of a coincidence that the purchase of the Waiahole Ditch system comes at a time when Amfac/JMB Hawaii is in financial trouble. Simply put, this is corporate welfare, a corporate bailout. Amfac/JMB Hawaii is a Chicago-based real estate company. Ten years ago, this company speculated on its real estate holdings, offering certificates of land appreciation on agricultural lands. I believe this is an effort to raise \$415 million.

"May I remind my colleagues that we owe nothing to Amfac/JMB Hawaii and that we owe integrity, leadership and responsibility to the people of Hawaii. I urge my colleagues to vote against this bill."

The following letter, as referenced above, was submitted by Representative Morita for insertion into the Journal:

"Unfortunately, it is possible that soon we will be asked to vote on House Bill 2990, relating to the purchase of the Waiahole Ditch system from Amfac. I have voiced my concern over the purchase in my floor remarks throughout the session. You also have heard from farmers and others from Windward O'ahu who are concerned about continued diversions and the impacts on Windward streams and ecosystems, including Kaneohe Bay.

"What I was not fully aware of and you may not know is the major impact that proposed agricultural expansion at Kunia and Ewa will have on the Neighbor Islands and other O'ahu farmers.

"Waiahole Ditch water is heavily subsidized. Leeward farmers pay \$.35 per thousand gallons for water from the Waiahole Ditch. In comparison, Kauai farmers pay \$1.78 per thousand for the first 25,000 gallons, then \$.60 per thousand gallons. Maui farmers pay \$1.15 to \$1.46 for the first 25,000 gallons, then \$.62 per thousand gallons. Big Island farmers pay up to \$2.00 per thousand gallons.

"When you combine this with the tremendous competitive advantages Central O'ahu farmers have by being close to the Honolulu market and the airport, the result is that farmers in other areas could be driven out of business.

"This is the conclusion local agricultural economists reached in a report prepared for Campbell Estate and Del Monte. Here are some excerpts based on their analysis of the prospects for diversified agriculture in Central O'ahu:

"Regarding the relocation of existing production, it generally was assumed that crop production in Kunia and central 'Ewa could displace 90 percent of the production on Moloka'i and could displace 50 percent

of the production from the rest of the State (primarily O'ahu). These assumptions reflect the strong location and other advantages that Kunia and central 'Ewa will offer for growing diversified crops.

'In some cases existing large-scale farmers will move to Kunia and central 'Ewa from other areas on O'ahu and from the Neighbor Islands.

'In other cases, the newly situated Kunia and 'Ewa farmers will drive other local farmers out of the market - including new farmers who may occupy the lands vacated by farmers who move to Kunia and central 'Ewa. Some farmers will be forewarned of problems when they lose their supply agreements to the Kunia and 'Ewa farmers. But other farmers will encounter crop prices which are too low to cover their costs. On occasion, overproduction will lead to market gluts, low prices, financial loss, and economic hardship for all farmers.

'As reflected in the above assumption, the farmers who will be most at risk will be those on the Neighbor Islands who supply the Honolulu produce markets, since they must pay additional costs for packing, shipping, and trucking (two trips rather than one), and their crop must be picked greener to compensate for the transport item (delivery to market takes days versus a few hours from Kunia or central 'Ewa).

'This adverse impact on Neighbor Island farmers is inevitable: if resources are available, production will naturally gravitate to where the combined production and delivery costs are lowest. The transition is not likely to be a smooth one, and it will be unpopular on the Neighbor Islands.' (Emphasis added.)

"Agricultural Lands of Kunia and Central Ewa, December 1993, pp 9-10.

"These economists have also determined that to irrigate all of the acreage that would be profitable to plant in Central O'ahu, it would require less than the 7 million gallons per day of water. Less than half the amount already allocated to Leeward landowners by the Commission on Water Resource Management.

"Currently, some of these landowners - Campbell Estate and O'ahu Sugar - hold permits to pump 50 million gallons per day of ground water for agricultural use on their lands. This water could be supplied for half the price Neighbor Island farmers now pay for their water. However, it appears that some landowners would prefer to have the taxpayers supply water through the Waiahole Ditch, and retain the groundwater for urban development.

"Most importantly, the landowners of Central O'ahu have not made any commitment to dedicate these lands to agriculture, nor have they provided long term leases to current tenants. All leases allow for revocation of the lease for non-agricultural uses.

"The Legislature and the Governor are moving hastily towards a decision that will affect the long term viability of diversified agriculture statewide. Are you prepared to take responsibility for the death of agriculture on the Neighbor Islands by subsidizing Waiahole Ditch water? Are you prepared to take responsibility for the demise of agriculture statewide when Central O'ahu landowners assert their 'right' to utilize their lands for 'highest and best use' as they move towards urbanization after eliminating farming operations on the Neighbor Islands as indicated by the Campbell/Del Monte report.

"Purchase of the Waiahole Ditch system is not the panacea to the promotion and viability of diversified

agriculture, rather it raises more questions than answers. The pros and cons of this issue need to be carefully addressed with the facts. It is necessary that the decision and order of the Commission on Water Resource Management and the subsequent appeals go through the judicial process where all interests are represented.

"This is not just a Windward farmers versus Leeward farmers issue. It is not just an agricultural versus environmental issue. It is not just an agricultural versus urban development issue. The ramifications of this issue are statewide.

"Enclosed for your information is the 'Honolulu Advertiser' April 29, 1998 editorial on the purchase. Please contact my office if you would like to review a copy of 'Agricultural Lands of Kunia and Central Ewa -- Potential Crops' prepared for The Estate of James Campbell and Del Monte Fresh Produce (Hawaii), Inc. by Decision Analysts Hawaii, Inc. and Peter V. Garrod, Ph D., December 1993.

"Your careful consideration of this issue is deeply appreciated."

The following attached editorial, as referenced above, was submitted by Representative Morita:

"Waiahole Ditch plan still raises questions"
Wednesday, April 29, 1998

"State House and Senate negotiators looking at a State purchase of the Waiahole Ditch irrigation system may have their focus on the wrong part of the issue.

"The two sides appear to be in general agreement that the purchase of the privately owned and operated ditch system makes sense. They cannot agree, however, on which State agency should operate the ditch once it becomes a public resource.

"Before they get to that question, lawmakers should think long and hard about whether they know enough about what they are buying and what its long-term use will be.

"Supporters of the purchase say the current owner, Amfac/JMB Hawaii, is no longer interested in operating the system. State purchase, they say, will guarantee a long-term, stable water supply for Leeward farmers at reasonable rates. In addition, keeping the ditch flowing will help renew the heavily used Pearl Harbor aquifer, they say.

"Those are strong arguments. But in their rush to approve the purchase, lawmakers have yet to be given complete answers to basic questions about the deal:

"If the purchase is designed to protect agriculture, what assurances does the state have that the water will be used for that purpose? There are competing demands for Waiahole Ditch water on the Leeward side. Lawmakers should insist on solid guarantees that the state purchase will ensure long-term diversified agriculture on former Leeward sugar lands.

"What, precisely, are they buying? The Waiahole Ditch irrigation systems in fact is a complex web of tunnels, ditches, leases, easements and other property arrangements. No one is precisely sure what all this adds up to.

"Honolulu residents Stephen Sawyer and Anthony Hodges recently asked whether it might be possible for a private party - them - to buy the ditch instead of the

State. But first, they said, they wanted a complete 'due diligence' report on what is for sale.

"In reply, Gov. Ben Cayetano said the State currently has several State agencies doing an 'in-depth and comprehensive review of the mosaic of lands, easements and leases and other assets necessary for the full operation of the system. Our agreement,' Cayetano added, 'allows us to decline the purchase of the system if we are not satisfied with our due diligence process.'

"Sensible. But it is equally sensible that lawmakers who authorize the bonds to buy the system get those answers as well, before they say 'yes' to the purchase."

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

"Mr. Speaker, I want to make sure that this bill, when it passes out of here, does a couple of things, or doesn't do a couple of things. Three of them: one, that this bill does not confer any authority to modify the allocation of water in the ditch. Second, that the water will truly be used for agriculture purposes so that long-term leases for agriculture in Leeward and Central Oahu will in fact be signed. And that the price of water be charged so that the reimbursable general obligation bonds will be repaid by user fees and not through the special fund.

"Mr. Speaker, I'm very concerned that the Central Oahu agricultural area will receive substantially subsidized water that would make it very difficult for Neighbor Island farmers to compete, such as the farmers in my own district.

"Mr. Speaker, Hawaii's agriculture is an essential part of our economy as we move into the next millennium. Because of this, we must be very careful that our capital investments support farmers, not large land holding corporations. That agricultural water is provided at a fair and equitable cost, not so heavily subsidized that one agricultural producing area has an unfair advantage that wipes out Neighbor Island farms.

"Thank you, Mr. Speaker."

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

"This bill, like other bills relating to agriculture that were introduced earlier this year, is designed to improve our economy by strengthening our diversified agriculture base. House Bill 2990 authorizes the issuance of \$9,700,000 of reimbursable general obligation bonds to purchase and improve the Waiahole water system. Reimbursable GO bonds mean that the users of the Waiahole water will be paying for the cost of the purchase of the system and not the taxpayers of Hawaii. I repeat, Mr. Speaker, the users of the Waiahole water system will pay for the water that they use over a 20 year period and not the taxpayers of Hawaii.

"This bill also establishes the Waiahole Water System Revolving Fund and appropriates \$550,000 in general funds for the administration, operation, and maintenance of the Waiahole water system by the State. Mr. Speaker, the question often asked is: What is the State purchasing with this \$9.7 million? Well, Mr. Speaker, here's what the State will get. First, the State will acquire title to 468 acres of fee simple conservation lands on the Windward side of the Ko'olaus. Next, the State will get an unbroken series of potential easements from the Windward side of Oahu to the Leeward side to allow the ditch to operate. Third, the State will have a 26 mile extensive tunnel and leak system that runs on and under and through the fee simple land and potential easements that we acquire.

And finally, Mr. Speaker, we will acquire the personal property and equipment of the Waiahole Irrigation Company to allow the State to operate the system.

"Mr. Speaker, another question frequently asked is: 'Who will the Waiahole water system serve?' Contrary to statements made by people who oppose this purchase, the major beneficiaries will be the people of Hawaii, all the people of Hawaii. Moreover, Mr. Speaker, the system will serve over 100 companies that presently hire over 1,600 workers on the Central Plains of Oahu.

"These companies rely, in whole or in part, on the continued use of the Waiahole water today and have no other source of water to replace water from the ditch. These operations include over 100 farmers in the Mililani area, Del Monte, Dole, Larry Jeffs Farms, Island Farms, the Hi-Tech Grass Feed Operation, and HARC, the (Hawaii Agriculture Research Center). The Waiahole irrigation system also serves other non-agriculture users, such as the State's Waiawa Prison, and the Mililani Cemetery area.

"Mr. Speaker, the managers of the agriculture operations have indicated a strong desire to expand their crops and create more jobs once the system comes under the management of the State and the long term availability of water is assured.

"Another question being asked is: What will the Waiahole system serve? Mr. Speaker, here's what the system will serve. There's a Water Commission decision that the waters allocated will serve almost 7,500 acres of some of the most productive agriculture lands in the State. The 7,500 acres are not currently used to their fullest at this time because of the lack of water. But the acquisition of the ditch will enable the farmers to maximize the uses of these lands.

"For example, Del Monte testified before the House Committee on Agriculture that they bring into production another 300 acres for its new Hawaiian grown pineapple. This is the low acid type pineapple that's really in demand. They plan to increase their acreage from 500 acres to slightly over 800 acres of pineapple. This is the real sweet, again, low acid pineapple that is in great demand. And it's only possible because there's just the right climate along the Waiahole Ditch right above Waipahu that has all the natural setting for this kind of, micro-climate they call it, for this kind of pineapple. Del Monte also plans to spend another \$300,000 to bring the 300 acres into production.

"Larry Jeffs, also one of the farmers in the area, plans to double his acreage under cultivation. To go from 800 acres to 1,600 acres."

Representative P. Oshiro then yielded his time to Representative Jones.

"Representative Jones continued, stating:

"Grass Feed also desires to expand his Hi-tech hybrid seed corn operation in the area. In addition, the use of high quality fresh water from the Waiahole system will benefit the Pearl Harbor ground water aquifers, which is the main source of domestic water from Waianae to Hawaii Kai. Without the Pearl Harbor aquifers, without replenishing these aquifers, these aquifers could be jeopardized in the future.

"Mr. Speaker, let me tell you what kind of crops are being grown in the Leeward area served by the Waiahole Ditch water and why the water system is so important to Hawaii. Major erosion agriculture import retention are being made in Central Oahu. Additional export crops are

growing. Present crops include seed corn production to supply the corn seeds for the vast mainland corn fields, watermelons, wild peppers, spices, pineapples, tomatoes, various Asian vegetables, lettuce and so on.

"Many new crops are being tested and proposed. These agricultural products are competitive in price and quality and are without doubt essential than any grown outside Hawaii, over 2,000 miles away in any direction. These crops can contribute to make Hawaii agriculturally self-sufficient in accordance with Article 11, Section 3 of the State Constitution, which mandates that Hawaii should become agriculturally self-sufficient.

"Finally, Mr. Speaker, I want to answer another frequently asked question: What is the Waiahole irrigation system? The Waiahole irrigation system was built over a three year period from 1913 to 1916. It has 26 miles of tunnels, lines, channels and siphons. The 26 mile system lies on uninterrupted chains of fee simple land and perpetual easements from the Windward side to the Leeward side of Oahu.

"The State Water Commission has allocated approximately 12 million gallons to the Leeward side, most of which are for agriculture use. The Waiahole irrigation system is in good shape except for a few siphons which will be replaced once the funds for this system is appropriated from this bill. If we were to rebuild the system today, Mr. Speaker, it would not cost \$10 million. It would cost more like \$80 million if we had to rebuild the system, considering we could get all of the environmental and other factors out of the way. It took three years to build this system in 1913, Mr. Speaker. Under today's laws and rules, it would probably take 25 years to get started.

"This bill provides an investment that will further encourage agribusiness development in Central Oahu. It will encourage farmers to plant more crops over larger acreage. Mr. Speaker, in view of things, I'd like to cut my speech short a little. These are the reasons why I support this measure. Thank you, Mr. Speaker."

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

"A recent editorial in the April 29th **Advertiser**, 'Waiahole Ditch Plan Still Raises Questions'. The **Advertiser** wrote: 'The rush to judgment to purchase the Waiahole Ditch from Amfac/JMB Hawaii brings up some questions.' The editorial also referred to what appears 'to begin an agreement that the purchase of the privately owned and operated ditch system makes sense.' I take great exception to that point on this floor today. Others have spoken before me and it's quite clear that everybody is not in agreement, but this is the best purchase that this State has ever seen.

"I have consistently and vigorously opposed Governor Ben Cayetano's proposal to purchase this system for several reasons. One, the State is experiencing severe financial problems at this time. Two, there seems to be an unwarranted rush to purchase, as if there were some emergency. Three, the Agriculture Development Corporation, which is scheduled to oversee the project, has demonstrated a lack of focus and inability to generate proper planning. Four, there has been a reluctance by the Administration to produce appropriate documentation regarding what would actually be purchased.

"Just because the State is worried that Amfac will walk away from its obligation is no reason to run off 'half cocked' to purchase the Waiahole Ditch. Why obligate the Hawaii State taxpayers to another \$9.7 million in reimbursable general obligation bonds, as well as

appropriating an additional \$550,000 from the general fund for management? It's sort of like the old adage about buying the Brooklyn Bridge. If you buy this, then I've got a bridge to sell you.

"It is difficult to understand why the State of Hawaii should capitulate to what is tantamount to black mail by Amfac/JMB Hawaii. There is no emergency. The ditch is in place and functioning. It's not going anywhere and you don't have to rebuild it. I would like to assure that to the Chair of the Agriculture Committee. And there's plenty of water flowing from it at this time.

"Therefore, ample time should be made available for adequate planning and careful due diligence before making such a huge commitment. Unfortunately, planning has not been one of the stakes of the Agriculture Business Development Corporation. A December 1997 publication by the Legislative Reference Bureau was entitled, 'Planning is not a Four Letter Word', takes ADC to task for scattered and inadequate planning.

"The Waiahole Ditch project did not even rate a mention among the 27 listed projects and programs that the ADC was looking at. That was December of '97, ladies and gentlemen. Mr. Speaker, today is June of 1998. Within that very short time, Waiahole Ditch became a number one priority for the ADC. I wonder why.

"For myself, it took five weeks and two requests before I received any title information from the ADC as to what the State was actually going to acquire through this purchase. Once I was able to study the documents provided, I began to understand the reluctance of the ADC to provide such information. Many of the easements necessary to the continued flow of water at the Waiahole Ditch irrigation system are not perpetual in nature. Some of the perpetual easements are cancelable for a certain term of years. In other words, the State of Hawaii may purchase the system only to have a crucial easement cancelled or extinguished.

"I just put the question to all of you in this chamber. If it was your \$10 million, wouldn't you want to know that you had clear title? You wouldn't even buy a house. You wouldn't buy a piece of land unless you knew you were getting clear title. We are not assured of that, ladies and gentlemen.

"I have opposed the Governor's proposal from the beginning. We are experiencing very difficult financial times in this State. And such a sizeable commitment, the risk must be completely justified. That is clearly not the case with the proposed Waiahole Ditch purchase. It seems that a more prudent approach might be for the ADC to enter into a short term, temporary management agreement with Amfac/JMB that runs the Waiahole Irrigation Company. Clearly, Amfac is saying, 'I don't want to own anymore.' It's like when you want to make a good deal on buying a house, you go to somebody that doesn't want that house anymore.

"We have time to negotiate. There is no emergency. I don't see why we want to pass this bill today. Next year would be ample time. Amfac right now has relief and is responsible for managing that ditch till the year 2000. I also have a problem with the Committee Report. During negotiations this was added in..."

Representative Aiona then yielded his time to Representative Meyer.

Representative Meyer continued, stating:

"...into the bill was added a requirement that the ADC 'worked toward obtaining commitments from landowners in the Leeward and Central districts of Oahu, that their agricultural leases be for a 20 year period, and the leases not be amended or revoked'. Well 'work towards' is a very vague phrase. I represent the Waiahole area. The State of Hawaii bought Waiahole and promised the lessees there that they would have long term leases. They've been working towards that for over 20 years. This is no clear assurance that these farmers would get long leases. Everything has been done to fast track this purchase. I simply ask, Mr. Speaker, that you folks will think very carefully about this before you give your vote tonight. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. The State is mandated by the Constitution to conserve and protect agricultural lands and to promote diversified agriculture. I believe that the acquisition by the State of the Waiahole water systems carries out this constitutional mandate. And I also believe that this good economic opportunity for the State to acquire a manageable irrigations system that will provide farming operations in Central Oahu and the assurance that the adequate supply of water will be available to them.

"And furthermore, Mr. Speaker, this will also give farmers the assurance for long term leases. This is very important as farmers will be needing to expand and further develop their agricultural operations. In the course of the lack of alternative sources of water in that area, and because of the lack of commitment on the part of its owner as to the future of the Waiahole water system, it is imperative that the State take action now for the future of farmers before it is going to continuously deteriorate.

"Water is such an essential component in agriculture, Mr. Speaker, and critical to the growth and development of diversified agriculture. And so, Mr. Speaker and members of the House, agriculture is one industry in Hawaii that is growing today. Its growth and expansion are dependent on water from the Waiahole water systems. Its growth and expansion mean jobs. Our economy needs it. And therefore, I strongly urge everybody to support this bill. Thank you, Mr. Speaker."

Representative Moses then rose to speak in strong support of the measure, stating:

"A couple of my colleagues at least have mentioned already that the Constitution of the State of Hawaii, Article 11, Section 3 reads: 'The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.' That's four items, Mr. Speaker.

"First, this bill is to protect the agricultural lands of the Leeward Coast, which are agricultural lands in the State of Hawaii. Without water, these lands cannot be agricultural lands. Two, without water, diversified agriculture will cease on the Leeward Coast. Three, without diversified agriculture on the Leeward Coast, we'll be even farther away from agricultural self-sufficiency. And four, without the State buying the Waiahole water system, the system will decay and ultimately cease to bring water to the Leeward Coast.

"No private businesses stepped forward to maintain the system, Mr. Speaker. There's no incentive for them to do so. We owe nothing to corporations, but we owe everything to the people of Hawaii. We must step in to

honor our constitutional commitment to agriculture. Thank you, Mr. Speaker."

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

"I wanted to share some reservations. I support this measure, but I just wanted to express my reservations. I support agriculture. I support the plan that the Leeward Ewa Plains be kept in farming.

"My reservations concern the inability to guarantee long-term leases. And with these leases that our local farmers be given preference. What I mean by local farmers, at least we get two to three generations, and I know they're out there wanting to farm. You know these corporations, Amfac in my opinion, in my lifetime, don't have a good track record in honoring these long-term leases. And I have reservations, and I hope that it would be true that they would give these farmers long-term leases.

"Also, my reservations are on the equitable sharing of the water not only on the Leeward Plain, but also on the Waiahole side. And I'm also concerned about the cost of the ability to repay this loan. But I support agriculture. Thank you, Mr. Speaker."

Representative Lee then rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Lee's remarks are as follows:

"Mr. Speaker, I rise to vote in favor of HB 2990 HD2, SD2, CD1, but to voice my concerns over making public what is private and paying \$10 million for it.

"I strongly support agriculture in Central Oahu, and water is essential to agriculture. That is why Oahu Sugar built the Waiahole Ditch. The ditch was built by immigrant workers in the twenties. They were paid one dollar a day.

"By the way, one dollar a day was the living wage which the sugar workers asked for in 1920 and why they went out in that great strike of 1920. Oahu Sugar refused to settle and hired UH students to break the strike and paid them the one dollar a day.

"The company then kicked the strikers and families out of their camps, and forced them - women and children and babies to leave their homes and their gardens and chickens - to walk from Waipahu to Honolulu on the railroad tracks. My late father-in-law saw this march from his farm in Kalihi. He was shocked by this act. He boiled tea and rice for the women and babies and let them sleep on his farm for the night.

"Waiahole Ditch has long since been paid for.

"Big and small business have asked us to cut the government force and privatize. Why do the opposite here?

"If is to ensure water for the farmers in Central Oahu, then let us make general plans for agriculture in Central Oahu. Land should be set aside for agriculture at long term leases, and water provided at a cost to be shared by farmers and the State and at no cost to the Waiahole Ditch Water Company. Marginal land should be allowed to be urbanized by the landowner in compensation for long-term agriculture leases and for water. The farmers should bear the cost of the delivery of water so that other farmers, say on Molokai, who pay higher rates, are not placed at a disadvantage.

"The State should work with landowners, the water company, current farmers, the water commission, and the community on an overall plan that does not require additional general funds and \$10 million bond money, but ensure the continuation of agriculture in Central Oahu with sufficient water."

Representative Jones then rose to speak in rebuttal, stating:

"Thank you, Mr. Speaker. I just wanted to mention that I think I answered most of the questions and concerns on this before. I'll make the speech available to whoever wants it. And also on the question that came up several times, the commitment from the landowners to extend the leases. We understand when we had the hearing in our Agriculture Committee that two important items in agriculture are water and land. That's why when this water bill left our Agriculture Committee and it went to the Finance Committee, I had a discussion with the Chair of the Finance Committee and we decided not to let that bill go until we could meet with the landowners.

"So we called in the landowners as part of a package to get assurance that they will give long-term leases. Up to now, they've been given very short-term leases, year to year or up to five years, and in a few cases maybe ten years. But when we met with them and we discussed the possibility of issuing long-term general obligation bond funds, which the farmers would have to repay, the statement that they made was: 'Gee, that's a real good reason for giving them longer term leases.' And we have commitment in writing that they will give 20 year leases. We have two commitments in writing from two of the landowners. The third landowner has given us a verbal commitment. So we'll be continuing the discussions with them, but we feel that we have made progress in this area for longer term leases.

"Thank you, Mr. Speaker."

Representative Meyer then rose to speak in rebuttal, stating:

"Just one thing I wanted to make the members aware of. When the Chair of Agriculture talks about this wonderful 400 acres of fee simple land over in Waiahole, most of that goes straight up the mountain. We are not talking about 400 acres of flat land. That's kind of like, hey, we're buying a lot of land with this. It's not true. We're mostly buying a ditch and a tunnel. Thank you, Mr. Speaker."

Representative Morita then rose to speak in rebuttal, stating:

"Just an additional comment. With regard to the leases, the long-term leases, yes, long-term leases may be granted, but they still hold a revocable clause in them. What really is needed is a dedication to agriculture. Having the lands dedicated to agriculture and that dedication is not being made.

"Secondly, there's always, in the Committee Report, there's a reference that the water is needed to enhance the Pearl Harbor aquifer. I believe those arguments were discounted by the U.S.G.S. in their testimony before the Commission on Water Resource Management where the amount of Waiahole water going into the Pearl Harbor aquifers is very minimal and does not make any difference. 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. 2990, HD 2, SD 2, CD 1, entitled: "A BILL FOR

AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Aiona, Halford, McDermott, Meyer, Morita, Pendleton, Takumi and Thielen voting no.

Conf. Com. Rep. No. 139 and H.B. No. 3443, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3443, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. Under the terms of this bill, Mr. Speaker, it moves agricultural development loans and business development loans toward privatization. If those departments chose to use the benefits in this bill, then they contract with private financial services to administer these loans.

"For example, Mr. Speaker, as we downsize the Department of Agriculture and DBEDT, it makes it all the more difficult for these loans to be processed. I have on record a loan application in DBEDT that took six months before it was reviewed. Under the terms of this bill, if they use the private financial sector, a business person in Hana, lower Puna, and any other rural areas in the State, can go to their own financial institution, the bank that they're used to dealing with, and make the applications for the loans through that bank. I think it will make all of these business development loans much more accessible to the people that really need them. And I urge this body's support of the bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 3443, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 140 and H.B. No. 2560, HD 2, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2560, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Morihara then rose to speak in support of the measure stating:

"Mr. Speaker and colleagues, this bill has been called the UH autonomy bill. Thanks to all your support and the impetus of the Economic Revitalization Task Force, we have here what has to be considered one of the most significant measures of this session, a measure that improved through the process and empowers the University of Hawaii. . . the bill gives the University increased flexibility in managing its resources. With this added flexibility, the University will be able to function more entrepreneurially, enabling it to more effectively meet its multiple mission of instruction, research and community service.

"I believe that this bill moves the University towards the structure that the framers of our State Constitution envisioned for it. The University is unlike other State departments because the State Constitution establishes the University as a body corporate. As such, it should be able to determine how it will achieve its goals. For example, the University should be free from the elaborate and time-consuming procedures with which other departments must comply, such as procedures required by

the procurement code. The University should have sole authority to determine how the revenue from fees that it charges for its various programs will be used. And the University should have its own attorneys.

"This bill frees the University from procurement so that it may respond to opportunities quickly and aggressively. It has the flexibility in concessions law to develop long term partnerships and joint ventures.

"We've consolidated special funds to operate more efficiently and benefit from their investment.

"The University will truly be a body corporate, as described in our Constitution, by having its own legal standing and determining its own legal representation, thereby allowing it to proactively solve its own problems and aggressively pursue opportunities.

"These measures will positively affect the University for years to come. Now the challenge for the University will be in implementing these changes. Also, with these powers will come greater responsibility and accountability. The University will be responsible to report back to us and the public on those changes. They will face challenges and problems, but now the solutions are in their hands.

"It is hard to let go, and there is a leap of faith that needs to be taken. Thank you for putting your faith in the University.

"The University is one of the top 25 public universities in the country. It brings in over \$150 million in research and training funds. Their potential is our State's potential. With strengths in technology, marine sciences, astronomy, and opportunities in outreach, medicine, and east-west relationships, I believe the University will be a leader of our State.

"I ask for your support on this measure. And will you please have the Clerk add a few more comments into the Journal for me. Thank you," and the Chair "so ordered."

Representative Morihara's additional remarks are as follows:

"With these kinds of provisions, the University of Hawaii would follow a national trend. At a recent briefing the House Higher Education Committee heard from national experts on governance structure of public universities to follow strict procedures, much like Hawaii's State Government now requires of its departments.

"Today, however, the environment in which higher education institutions find themselves has changed so that it is now a very dynamic one. While procedural requirements may have been effective in the past, they now hold institutions back, preventing them from taking advantage of opportunities.

"The trend today is to set goals for public higher education institutions and to give them freedom to pursue those goals without imposing procedural mandates. That is what the best state universities across the country have already done, and that is what this bill intends to do for the University of Hawaii.

"In granting increased flexibility, this bill enables the University to increase its revenues from sources other than the general fund. As you may know, general fund appropriations to the University have steadily declined for several years. With Hawaii's economy the way it is, I don't think the University can expect any more general

fund appropriations from the state -- at least for the foreseeable future. This bill gives the University opportunities to generate more revenue from other sources.

"Some of you may be wondering if the University will be responsible in using the increased flexibility provided in this bill. Of course, there are no guarantees. But if past experience is an indication, the prospects are encouraging. In 1986 the Legislature enacted Act 321, which granted the University of Hawaii, along with the Department of Education, limited flexibility in managing its fiscal resources. In the more than ten years since that time, the University of Hawaii has demonstrated that it has used this added authority well.

"Furthermore, you can be certain that in the coming years the House Higher Education Committee will keep close watch of how the University is using the increased flexibility provided in this bill.

"Mr. Speaker and colleagues, the University of Hawaii has the potential to become a great institution of higher education. This bill provides the tools for the University to realize that potential. I urge your support for H.B. No. 2560, H.D.2, S.D.2, C.D.1."

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

"Very briefly, Mr. Speaker. If and when Hawaii reaches excellence, it's going to be through this bill. It's going to be through the autonomy. We have a chance to make Stanford and Silicone Valley with what we're now giving the University of Hawaii. What I would just question is that we know when they reach it and we know how to measure what we expect from this bill.

"The Chair said there should be a leap of faith. I think that's well taken because we know that there's the potential. We know they have the people, the brains. Someone said the other day, we should measure by the number of Nobel Prizes or other awards that we get. But Mr. Speaker, I think the possibilities are unlimited. It's only that we have to rush it. We have to, in fact I would suggest, even let HPU provoke it to jealousy. That is excellence in academic entrepreneurship to where there's some of us that have made \$100 million worth of untouched educational opportunities just by bringing Asian/Pacific Islanders to study in Hawaii by using for adult, even for visitors in the tourism industry, to take language studies.

"So we have very much unleashed this potential through this bill, but I hope we follow up with it and measure it and make sure that they're excelling so we can become a center of excellence in the Pacific. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. As the Chair of the Higher Education Committee already said, the University's Board of Regents and administration, through this bill, are going to be delegated a substantial increase in authority and decision making power over the real and personal assets held in public trust, pursuant to our Constitution and the management of human resources and programs at the University.

"I've been very honored, Mr. Speaker, to serve on the Higher Education Committee and as a member of the conference on this Committee. But I think one of the few comments made by the **Honolulu Star-Bulletin**, which I strongly support, is that this bill was hardly given any

mention in the papers. And I think through the process of this Legislature, people's beliefs have gotten stronger. And I think most of the credit to the development of the ideas embodied in this bill should be given to you, Mr. Speaker, to the Chair of the Finance Committee and, most importantly, to the Chair of our Higher Education Committee. For without his help, I believe this bill wouldn't be on our tables today.

"I'd also like, Mr. Speaker, with your permission, to insert into the Journal comments made by the **Honolulu Star-Bulletin** in the editorial that followed a few days ago, highlighting the accomplishments of this particular measure and about the desires and dreams that, hopefully, this measure will provide.

"Thank you, Mr. Speaker," and the Chair "so ordered."

Representative Takai's additional remarks are as follows:

HONOLULU STAR-BULLETIN Friday-May 8, 1998

Autonomy for UH

"One of the less heralded but most significant achievements of the current session of the Legislature is the approval of greater autonomy for the University of Hawaii. President Kenneth Mortimer has maintained that the University needs more control over its affairs in order to achieve the degree of excellence the State requires. At present, the University is subject to State restrictions that often result in long delays

"A measure that has cleared a legislative conference committee and is headed for final approval would exempt the University from the State procurement law, give the UH Board of Regents authority to set fees for sports and other public events and provide more freedom in negotiating broadcast and advertising rights.

"The bill also sets a range for general fund appropriations for the University at three to five times the revenue generated by tuition charges, thus ensuring that the state would not reduce its support to offset growth in tuition revenue.

"Eugene Imai, UH senior Vice President for Administration, said the measure 'became even more robust as it was going through the session...so we're very pleased.' All indications are this bill will give the UH the freedom from constricting State regulation that it badly needs."

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

"Thank you, Mr. Speaker. For some of our colleagues that are wondering about some measurements, the bill does contain on page 52, I know it's quite a long bill, Section 26, that the President of the University will report to the Legislature each year on the amounts of revenues that go into the special funds. So that is at least one measurement that we can look at. If they're doing poorly there, there might be problems. If they're generating their own funds that make them self-sufficient, that should be indicating that something is going right.

"And I just want to say it was a pleasure to serve as a member of your Higher Education Committee and as a conferee on this bill. We had a good Committee and I think we did some great work on this bill for the people of Hawaii. I think that maybe the newspapers will go back and look at what they missed.

"Thank you, Mr. Speaker."

Representative Tarnas then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Tarnas' remarks are as follows:

"Mr. Speaker, I support this bill as a major step in enabling the University of Hawaii to develop centers of excellence in a number of important subject areas. The University fulfills an essential role in the economic development of this State. Through this measure, we are providing the tools to the University to achieve its potential.

"With this bill, we can look forward to the University's effective participation in the future success of Hawaii's economic sectors in ocean science, astronomy, volcanology and other geosciences, as well as agriculture and biotechnology. The University of Hawaii will now have the flexibility to be able to more effectively achieve its mission of teaching, research and community service.

"Mr. Speaker, I wish to thank the Chair of the Higher Education Committee for his hard work on this measure. As a conferee on the conference committee for this bill, I can personally attest to the fact that this measure, which started with the Economic Revitalization Task Force, has been significantly improved through the legislative process. Congratulations on your work.

"Thank you Mr. Speaker."

Representative Kawanakoa then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa continued, stating:

"And if I may, I simply say that this is simply a very good bill. It's a recommendation from the ERTF, Economic Revitalization Task Force. And we're taking a step in the right direction to allow the University of Hawaii the autonomy it needs to carry our education in the next millennium. Thank you."

Representative Kawanakoa's remarks are as follows:

"I know that it's hard to let go, and we're tempted to give our child that one last piece of advice, but a 90-year old child has probably gained enough of our wisdom in that time.

"We've been accused of micro-management of higher education for too long. This bill will help rid this House of that reputation, a reputation that, judging from our past actions, we richly deserve.

"But the time has come for us to let go, and let our child reach for her own dreams. For with the University of Hawaii go the hopes for Hawaii's future."

Representative Ahu Isa then rose in strong support of the measure and asked that the remarks of Representative Morihara be inserted into the Journal as if 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. 2560, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 141 and S.B. No. 379, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 379, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"Thank you, Mr. Speaker. This is the first fee in the order of the evening. Excuse me if I'm a little lethargic. I had that big meal. I can already feel the plaque starting to form in my arteries. But this bill, I tried to read it. I tried to figure it out, and I just couldn't, even in our caucus. You charge \$7 for a tire. It's the invisible fee for the invisible tire, which if you never turn your tires in, you never pay the fee. But if you buy tires without bringing in the old tires, you got to pay a fee.

"And I think this is contrary to what this body has tried to do this year, moving away from this sort of non-sensible regulations that we put on the small businessman. 'To keep track of this, here's your little slip, bring it back. 'Can you take it to Lex Brodie?' 'No, he's got to go to Goodyear.' I mean, there's one thing it doesn't do. It doesn't get tires out of our yards or out of our neighbor's field.

"If they came up with some plan that paid \$7 to someone who picked a tire up out of the landfill next to you, the dump next to you, and turned it in, somehow the Finance will say, well, that might have some merit. But this doesn't even provide incentive to get the tires out of the dumps. So for that reason, I stand in opposition. Thank you."

Representative Ward then rose and stated:

"If my colleague would, there was a bit of confusion. May I ask a question to the Chair -- a \$7 question?"

At 8:15 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 8:22 o'clock p.m.

The Chair asked: "Representative Ward, did you get your question answered?"

Representative Ward replied: "I got \$7 worth. Thank you very much."

Representative Yoshinaga then rose in support of the measure and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Yoshinaga's remarks are as follows:

"In past years, Hawaii legislators have taken major steps to protect our environment using the partnership with business and industry approach, with the least possible government intervention, and the least possible expense to government, business and consumers.

"Tires and lead acid batteries are two of the best examples of this partnership approach. In this bill, we innovatively addressed these issues with requirements that retailers and wholesalers be responsible for proper disposal, as they are the ones best able to assure such disposal. In both cases, this partnership effort paid off, with a major portion of the problem resolved with minimal government effort and cost to the taxpayers.

"Although we may have resolved up to 95% of the problem involving illegally disposed of motor vehicle tires, we find that there are some in our community that will circumvent the law in favor of financial enhancement. With tires, it has happened in two areas.

"First is the consumer that will purchase a tire from discount store for carry-out. They will then mount the tire themselves, or go to a service station to have the tire mounted. Rather than pay an additional fee for disposal, they will dump the tire illegally, creating a problem for property owners or the county. A portion of this bill addresses such activity by requiring sellers to impose a \$7 core-charge to any customer who does not leave an old tire in exchange for the new tire purchased. For the vast majority of consumers, this measure will have no effect, since they want to leave their old tires behind. For those that take their old tires, the \$7 charge will be refundable upon return of a tire.

"The second area of concern is the small tire retailer who must accept used tires from the consumer when selling new tires. Although current law does require the wholesaler to accept old tires from the retailer on a one-for-one basis, the wholesaler can and does charge a fee for accepting and disposing the tires. This fee is generally below \$3, and can be as low as \$1.75. It has been financially advantageous to either dump, or have someone else dump the tires illegally to avoid the disposal cost with the illegal dumping. This bill will place controls over this illegal activity by requiring a recordkeeping audit trail of the disposal of tires by retailers and wholesalers. This will allow the Department of Health to easily track any suspected illegal activities, with minimal cost to government and business.

"The bill requires no additional funding by government, and will only affect those attempting to avoid their responsibility to our environment. Thank you for the opportunity to speak in favor of this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 379, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Final Reading by a vote of 48 ayes to 3 noes, with Representatives Ahu Isa, Halford and McDermott voting no.

The Chair directed the Clerk to note that H.B. Nos. 3446, 2680, 2990, 3443, 2560 and S.B. Nos. 3248, 2633 and 379 had passed Final Reading at 8:34 o'clock p.m.

Representative Say then rose and requested waiver of the 48-hour hearing notice requirement to reconsider action previously taken on SB 2065 and SB 3075 for decision making in the Majority Caucus Room immediately following recess.

At 8:35 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 8:58 o'clock p.m.

At this time, Representative Cachola rose to make the following presentation:

Representative Cachola stated:

"Mr. Speaker, being captain of your golf team, we had the House/Senate challenge way back on April 15th of this year. And I'm very proud and honored to announce that the House team retained the perpetual trophy right beside you, Mr. Speaker, for another year. We had seven matches won and three losses.

"And at this time, I'd like to present to you the members of the House golf team: Representative Bob Herkes, will you please go around and close to the trophy so we can present it to the Speaker; Representative Yamane; Representative Nakasone; the Minority Leader, Quentin Kawanakoa; Representative Kanoho, Representative White; Representatives Garcia and Aiona. Alternate is Representatives Paul Whalen and David Morihara. Also a member of the team is the new Ombudsman, Robin Matsunaga, and of course yourself, Mr. Speaker.

"Assisting me in presenting this trophy to the Speaker, I'd like to request the Minority Leader Quentin Kawanakoa and Robin Matsunaga. This will be your last time to be a member of the team. So I'll be coming up there to present the trophy with you folks to the Speaker. Please give all of them a big round of applause."

The Chair responded: "On behalf of the House, I accept the trophy. We should be able to keep it permanently. We've been beating the Senate consistently and maybe we should pass that on."

Conf. Com. Rep. No. 142 and S.B. No. 760, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 760, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Kawanakoa rose to speak in support of the measure with "a simple reservation," stating:

"I only wish we went a little further to have developed what experts know will help our schools. Mr. Speaker, smaller schools and schools-within-schools is a key and an answer to help in our educational system. I suspect our Education Chair, the gentleman from Hawaii Kai, does too. He agrees with this perspective.

"You know, there is overwhelming evidence, Mr. Speaker, that smaller schools work, and that the efficient way to create them is schools-within-schools. Mr. Curt Daley, the wonderful principal from Kauai, has worked miracles at Kapaa Elementary School. All over our State, our innovative teachers and administrators are facing DOE barriers that prevent them from being the best that they can be.

"The Republicans sponsored, Mr. Speaker, here in the House a forum on small schools and schools-within-schools. From that experience, our Education Chair worked to help those teachers who seek this sort of excellence in the schools-within-schools concept. The last Conference Committee dealt with the issue that resulted in a much weaker bill that we had before us, but it is still a step in the right direction.

"This bill won't solve the teachers' problems, but it is good that we are putting the DOE on notice that we intend to support innovation and creativity in our schools. Our children, not legislators, reluctant administrators or paralyzed principals, must come first.

"I would like to simply note that much of the discussion in our forum pointed out that the people -- the students and the children -- who have benefitted the most in our small schools are the underprivileged students -- the kids that don't have strong family backgrounds, or parents at home to help them with their homework. The small school forum, the small school environment provide that

extra attention, and these kids excel in a small school environment. We should do everything in our power to create smaller schools for the children of our islands.

"Thank you, Mr. Speaker."

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

"First, to agree with the comments of the Minority Leader.

"This bill does establish the direction. We are saying that there's a need to put in statute the ability of any public school to establish schools-within-schools. And we are saying that the specifics of this policy will be developed by the Board of Education. In section 2, we specifically say that the Board will develop a plan to encourage schools-within-schools at all of our schools. We also request that the Board, in designing the plan, systematically review how schools-within-schools have worked elsewhere and incorporate the factors shown to be important in the success of existing schools-within-schools in that plan.

"Mr. Speaker, I just want to point out that there are some incredible examples of schools-within-schools working well on the mainland. For instance, in Harlem where a large school -- a very crowded school -- was not able to produce results for any of its students. When they chose to break up that large school into smaller schools-within-schools, significant performance improvements were evident among the students at those schools-within-schools.

"We have been approached by people at Mountain View School and the principal at Kapaa Elementary, saying that this kind of legislation is important. One of the reasons that Kapaa has been so successful over the years is that the person who initiated schools-within-schools remains there. We want to ensure for those who initiate schools-within-schools that if there's a departure of the leadership or change in the district superintendent, that they will have an opportunity to maintain their school-within-school and not be terminated unless there is significant deliberation and merit to such a termination.

"Mr. Speaker, we share policymaking decisions for education with the Board of Education. I want to mention though that many of the school reforms within the last ten years have come from the Legislature. The School/Community-Based Management came from the Legislature, Incentive and Innovation Grant Funds came from the Legislature, Student-Centered Schools came from the Legislature. And in each of those instances, the Board of Education followed up past rules, established more specifics about the policy that we initiated in the Legislature, and I think this is another example.

"Right now, there isn't a policy established by the Board. What we're asking is that the Board highlight schools-within-schools as a merit agenda for the coming year, and that they complete their plan no later than March 31 of this coming year.

"In conclusion, Mr. Speaker, this bill assures that schools-within-schools will be established, will continue, and will end based on a rational procedure established by the Board of Education rather than on arbitrary decisions of district superintendents or new principals who don't like the rules defined at their new schools.

"For these reasons, I ask the support of the members. Thank you."

Representative Kahikina then rose in opposition to the measure, stating:

"I would not argue the merit of what the Chairman of Education nor the Minority Leader have shared about the need for smaller schools, the need for excellence at our schools. The opposition that I raise, Mr. Speaker, is that in 1989 this Legislature had enacted School/Community-Based Management. It is codified in HRS 296-C, and it simply says that 'to insure the excellence of Hawaii's public schools, particularly by restructuring the system to allow for more educational decision making at the school level and thereby increasing the involvement of those directly affected by the decisions, should increase accountability and result in excellence we seek.' This is the 'excellence' that we talk about, where we empower the school level to make decisions such as schools-within-schools. It also goes on and directs the Department of Education, the Board of Education, and all other agencies of the State to exercise their powers to foster that involvement and accountability.

"In subsection 3, Educational Objective, 'the Board of Education shall formulate and exercise such control as may be necessary to define a common set of educational goals which the schools subject to School/Community-Based Management system shall be responsible for fulfilling.'

"Mr. Speaker, the power should be given at the school level. It should not be made at a district level, or even a new principal coming into the school making this decision. The Board of Education and its Superintendent shall formulate policies. These are the policies that we are talking about in this bill. Also included in Criteria and Procedures, it defines the term: 'School/Community-Based Management shall mean a method of educational management which defuses educational decision making to involve, or secure the input of those directly affected by the decision to be made at the school level, and encourages school-initiated methods for achieving educational goals established statewide by the Board.'

"Mr. Speaker, we already have a law enacted that would allow the schools to do such things as schools-within-schools. We have it at the grassroots level. And if it is the concern like we mentioned about Mountain View School, where a new principal comes in and goes against the wishes of the other elements within the School/Community-Based Management, then we should empower this legislation to perhaps give them hiring and firing powers, that perhaps that principal should be fired by the other five elements within the School/Community-Based Management.

"For those reasons, that we are setting a precedent. . . next year we may be looking at school-to-work programs that we want to legislate. We may want to see other kinds of programs that we might want to codify. We have the empowerment right here. It is called School/Community-Based Management.

"These are the reasons why I object to this legislation. But for the other reasons, as have been mentioned by prior speakers, I fully agree with those. Thank you, Mr. Speaker."

Representative Pendleton then rose in support of the measure, stating:

"Mr. Speaker, first, I would like to incorporate the remarks of our distinguished Minority Leader as though they were my own," and the Chair "so ordered." (By reference only)

"I would like to add just a few comments. My wife was on the SCBM at Keolu Elementary for some time and found that the process did not afford them the opportunity or the authority or the means to really be innovative and creative. Sure, they attended meetings and had a chance to vent and to talk, but it did not give them the 'tools' to really effect the changes. I suppose that is why she moved on to the Board of Education.

"This particular bill -- schools-within-schools -- is a very good bill, and again I commend the work of our Chair of Education and fully concur with all the remarks that he has stressed this evening. I think this bill empowers the people of Hawaii, parents of public school children, and our entire system to move beyond the bureaucratic logjam to really be innovative and to look at ways in which we can share power and make education more effective.

"We have to change, Mr. Speaker. Looking at our schools, they could be better and they need to be better. This bill moves us in that right direction.

"Thank you, Mr. Speaker."

Representative Moses then rose in support of the measure, stating:

"I have to declare a possible conflict of interest. I'm the Chair of my SCBM Council at Makakilo Elementary School," and the Chair ruled "no conflict."

"Mr. Speaker, the way I read this bill, and I did sit in on the conference although I was not a conferee, is that in the wording of the bill, it says: 'Any public school may...' It doesn't say they shall. It says they will be encouraged, they will get some support, and it will be promulgated from higher-up on how they can do it if they want to. But this does say that the 'public school may.'"

"The public schools, when they make their decision on whether they want to or not, will have to use whatever decision making powers they use now. And about two hundred of our schools are SCBM, so they would still have to go through that process to make the determination whether they want to have schools-within-schools. I don't think that this takes authority away from the community and the SCBM Council. I think it just says that you have more options now in the way you want to govern your school. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 760, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOLS-WITHIN-SCHOOLS," passed Final Reading by a vote of 46 ayes to 5 noes, with Representatives Ito, Kahikina, Kawakami, Tom and Yoshinaga voting no.

Conf. Com. Rep. No. 143 and S.B. No. 2204, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2204, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Tarnas then rose to speak in opposition to the measure, stating:

"Mr. Speaker, I oppose this measure and there's a couple of things that are unclear in the Committee Report that I would like to mention.

"First, it's unclear whether or not this changes the existing voting requirements for boards and commissions.

And it's also unclear whether or not the rules that must be adopted by the agencies to set time limits must be done prior to any other rule making. I know the Chair of CPC, we did speak about this and you did give me some assurances, but perhaps you might be able to address those questions on the floor.

"But, Mr. Speaker, I would like to point out that I believe, as a policy matter, automatic approval is not a good idea. What it does is it pushes the burden of proof on the State rather than the applicant to show that the proposal is consistent with State policies.

"This bill, I think, will cause a number of problems. And let me just give a couple of examples. For example, a Land Use Commission decision on an application to reclassify conservation or agriculture land requires six out of nine votes for approval. Let's say that it's a five to four vote or a four/four vote. It is not enough to approve or deny the permit. So if after the statutory deadline of 365 days is up, the application gets automatic approval.

"Another example, the LUC is in the midst of a contested case hearing and the clock hits 365 days. Current statute allows an extension in the case of a contested case hearing. But this bill says times up, applicant wins, the application is approved.

"Mr. Speaker, the list of examples go on that include deliberations of the Public Utilities Commission and the Water Commission, and even the county planning commissions on our different islands. For example, it's their decision, the County Planning Commissions' decisions if special management area permit applications may be included in this. Unless it is successfully argued that this is a delegation or authorization of the federal law -- Coastal Zone Management Act -- and therefore not applicable under this law.

"So Mr. Speaker, I have a number of concerns about this. I don't think it's good planning policy and therefore I oppose this measure.

"Thank you, Mr. Speaker."

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

"This is another one of our efforts to try to clean up the regulatory mess that we're in that has really brought businesses to a standstill. As I read the bill, each agency has the opportunity to establish their time lines. I'm not sure there are any limits -- whether it's one month, six months, five years. This has been the rule in the State of California, which has very stringent environmental laws. It has not been a problem in California as I understand it.

"And the other thing that I think it'll do, the problem with getting quorums on some of these sensitive boards and commissions, is that some of the members don't want to upset the vote. I think maybe this will force them into voting, which they were appointed to do. And so maybe it's going to bring better quorums to these boards and commissions rather than just abdicating, abdicating, as they're doing now.

"I think it's a bill that's going to move in the right direction, and I urge the members' support."

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

"I rise to speak on this measure as the lead manager for the House conferees that reviewed this particular bill. As has been indicated earlier, the bill that is before you would implement one of the important recommendations

of the ERTF, the Economic Revitalization Task Force, to stimulate our economy.

"The purpose of the bill is to improve the regulatory process by allowing each of these boards and commissions to adopt rules that establish maximum time periods to grant or deny a business and development related permits, licenses, and approvals. Mr. Speaker, throughout the course of this session, we have heard loud and clear from businesses that there is a clear need for the Legislature to take bold and effective action to jump start our troubled economy. Specifically, businesses have pointed out the fact that the eleven committees and certain State and County regulatory process has hampered business activity and that, therefore, there's an urgent need for this body to adopt legislation creating a faster and more accountable regulatory system in the State of Hawaii.

"Mr. Speaker, I believe that is before us, which is strongly supported by the business community and will achieve this goal. While I recognize that a number of concerns have been expressed about this bill, and more specifically by certain environmental groups whom I commend for trying to bring the concerns to the attention of this legislative body, let me just say that your House conferees, in review of this particular conference draft, are very sensitive to these concerns. Because we recognize the fact that it is very important to assure that State and county agencies, boards, or commissions have sufficient time to be able to evaluate an application to ensure the social and environmental impacts are adequately considered with necessary public input.

"We feel that there are several ways in which the House conferees addressed these concerns of the conflicts of this measure. First of all, your Conference Committee deleted the provision that would have required agencies to adopt rules to review applications within the 90 day time period. Your conferees felt that the imposition of this arbitrary time period would hamper the ability of boards and commissions, such as the Land Use Commission and the Board of Land and Natural Resources, to be able to thoroughly and exhaustively conduct administrative concerns.

"Moreover, to address the concern that through automatic approval, provisions of this bill would force agencies to rush approval of conflicts of applications. This bill would allow agencies flexibility to establish their own time periods, taking into account their existing man power, their intimate knowledge of the time it takes to process permits, as well as the understanding and experience of contested case procedures. In this regard, agencies would have the responsibility to establish realistic and achievable review on approval time periods.

"This measure also gives agencies the flexibility to adopt safeguards, such as procedures to grant time extensions if it was felt necessary that the additional time was needed to review our complex application. And as an ultimate safeguard under this bill, agencies would retain the authority to deny applications that are deemed to be incomplete or inadequate.

"Another concern that has been expressed is that this bill would override State laws that established voting requirements to be legally met before a proposed development project can be approved. I believe that we've addressed this particular issue in our Committee Report where we state that 'this bill is not meant to change the existing legal requirements for actions necessary to approve applications and petitions which must be voted on by boards and commissions, as long as the actions are taken within the time limits established by statute or rule.'

"Furthermore, I'd like to clarify, for legislative history and for the record, that it was not the intention of your House conferees, in recommending passage of this bill, that this bill should affect rule making proceedings that are ongoing before State agencies, boards, or commissions.

"And finally, concerns have been expressed about the interplay between the automatic permit approval provision in this bill and the voting requirements and quorum requirements that apply to the various core of commissions and boards in Hawaii. Your conferees did not feel that there was enough time to address this complex issue during conference deliberations. Nevertheless, I think the Committee Report makes very clear that it is our intention to address this issue during the 1999 legislative session before the automatic approval rules come into effect.

"For the reasons that I stated, I believe that this measure is a fair and balanced measure which is needed to stimulate our economy. And in that respect, I would respectfully request my colleagues to vote in support of this measure. Thank you."

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

"May I please incorporate the remarks of the previous two speakers, by reference, and also I have additional remarks that I'd like to insert into the record," and the Chair "so ordered."

Representative Case's additional remarks are as follows:

"Mr. Speaker, this measure aims to improve our regulatory process by requiring administrative prioritization in evaluating certain permit and license applications. In that goal, it is no different from comparable legislative action taken by other environmentally friendly states such as California.

"Earlier versions of this bill frankly represented overreaching by some segments of the business community and I could not support them. This final measure simply requires permit-issuing agencies to adopt rules by no later than December 31, 1999 specifying a maximum time period to grant or deny covered applications, a mandate which I believe is reasonable and responsible.

"There were several legitimate concerns raised by the environmental community throughout the public discussion of this measure. In many cases modifications to the bill itself were made to address those concerns.

"Most of the remaining concerns were addressed in the Conference Committee Report, specifically the four full paragraphs on the second page. Most notably, the committee report: (a) flags for further legislative action in 1999 the interaction of various quorum requirements with permit approval rules; (b) includes language specifically requested by environmental advocates to address specific concerns regarding the Land Use Commission; and (c) confirms that neither this bill nor any resulting rules apply to any pending applications or related disputes.

"As a practical matter, with the additional confirmation that all issuing agencies shall adopt implementing rules with full public input, the 1999 Legislature will likely be able to address these and other remaining concerns statutorily before any such rules become effective. I urge that those agencies and that Legislature further review the balanced approach to this subject taken by California and other states."

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

"Thank you, Mr. Speaker. I really had some heartfelt lobbying against this measure, but I felt that if all the departments would set reasonable limits and there were enough safeguards in it, that I would support this measure wholeheartedly. I think there's a need for some sort of time limit because my understanding is that there is major industry in the State that was required by the State to install scrubbers for their smokestacks and then had to wait five years to get a permit to install these scrubbers. And I think that's crazy.

"The Smithsonian Institute had wanted a permit to conduct some archaeological projects off the coast of Kauai. They wanted to examine King Kalakaua's yacht that had sunk offshore. They did receive a temporary permit, but were never able to receive a permanent permit. After two years, they just left.

"Finally, we've had trouble getting permits to repair Hawaiian fish ponds. All the while the fish ponds were deteriorating very quickly. For all these projects that needed to be done, I felt that this measure would have helped them all immeasurably. Thank you."

Representative Yoshinaga then rose and stated:

"Mr. Speaker, I request that the comments of the Representative from Mililani be incorporated into the Journal as my own, and I'd just like to share a few comments," and the Chair "so ordered." (By reference only)

"As Chair of your Energy and Environmental Protection Committee, our Committee also supported, I think, a sub-balance between environmental protection issues without compromising environmental standards with the need for economic development. And for these reasons, our Committee supported several measures that did not make it to this floor. But as a conferee on the Conference Committee for this measure, I stand in full support that this is a reasonable balance between those two standards. Thank you, Mr. Speaker."

Representative Morita then rose and stated:

"Thank you, Mr. Speaker. I rise in opposition to this bill and wish to take the comments of my colleague from Kohala as my own," and the Chair "so ordered." (By reference only)

"Mr. Speaker, this might sound a little farfetched, but I've come to the conclusion that what we are trying to do is to legislate worker productivity and it just does not make for good law. If we truly believe that Hawaii's environment, good land use planning, and public participation are important to us, then the concept of permit approval by default is not acceptable. I hope my colleagues will seriously consider this, that we should fix the underlying problem and not allow permit by default."

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

"Thank you, Mr. Speaker. This bill will let time be the deciding factor, not the merits of the permit application. That's not the way that we should do land use planning or other environmental planning. I think that all members should take a look at this. I think what the Representative from Hana has stated has a great deal of merit. If we're frustrated about the length of time it takes to process the permit, why don't we take a look at those permitting authorities and see if we've given them the adequate resources, the resources that are needed for

environmental processing, to be able to get permits passed, either through or denied in a timely manner.

"I think you all saw the graph that I showed several sessions ago that showed the infinitesimal sliver we are giving to the environment from general funds. In other words, you almost have to take a microscope to see if there was even a line on the pie chart to show how much we were donating toward the environment. It's very, very minor. Now inherent in that, if we're not giving the support to the agencies that are processing these permits, then also turn around and mandate time frames and then mandate that permits will be issued by default, we're going to have a lot of non-meritorious permits being granted.

"This isn't the right way to do this, Mr. Speaker. We may have some time to look at it again next session because I think those different boards and agencies won't be able to develop the rules that fast, and this is May. We're looking at convening again in January. I would hope that at that point we would take a real hard look at this and say: that's not the way that we should do this, permits by default, we'll deserve what we get and it's not going to be good. And it's not going to be good for the State of Hawaii. Thank you."

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

"Mr. Speaker, the lengthy and inefficient processing of permits and approvals has consistently been identified as a contributing factor to Hawaii's poor business climate. Existing processes are cumbersome and fraught with uncertainty -- inhibiting capital investment and stifling new business opportunities.

"This bill will change this by providing an efficient, predictable and accountable system. In essence, it shifts our regulatory 'culture' from one of delay and uncertainty to one of efficiency and decisive action. This, I believe, will send a clear signal that we are serious about improving our business climate and energizing our economy.

"The length of the time period is not established as Representative Menor stated. Rather, each agency will set its own maximum time period, which would reflect and be commensurate with available personnel resources, agency workload, and past processing experiences, including the time requisite for contested case hearings.

"I ask my colleagues to keep in mind that this bill is prospective in nature and that all agencies have until December 31, 1999 to prepare and adopt the required rules. In addition, those same clauses relating to agricultural lands contained in the State Constitution should precede the statute and remain in full force and effect.

"This bill does not compromise public participation, nor does it jeopardize our precious land and water resources. To the contrary, it creates a regulatory environment within which affected boards, agencies, and commissions are held responsible and accountable for making timely and definitive decisions.

"In an era where performance-based government is now the accepted standard, this bill brings both responsibility and accountability to government. Agencies must set realistic guidelines and time frames, and then live up to them. Agencies will no longer be able to duck responsibility or avoid tough decisions through endless deferrals or simple inaction.

"Mr. Speaker, helping business and strengthening our economy is still the primary objective of this session, and this bill certainly helps to accomplish this objective and deserves our full support. Thank you."

Representative Santiago then rose to speak in opposition to the measure, stating:

"Mr. Speaker, for those of us who represent communities where development issues have become the focus of statewide concern, a bill like this causes me great concern. I understand the need for us to look at trying to stimulate business. I agree with some of the previous speakers who talked about other ways that we could do that. Surely the resources, if that becomes an issue for the speedy development or the speedy review of development plans need to be addressed, my concern is that this may lead towards opening the door for development in areas that are so important to be preserved. And as a Representative of Kahuku, one of the districts that's real sensitive to this, I have to vote 'no'. And I'm hoping that we will review this in the future. Thank you, Mr. Speaker."

Representative Lee then rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Lee's remarks are as follows:

"Mr. Speaker, I am reluctantly voting for SB 2204 CD 1. I am disturbed by the philosophy in the bill and its abdication of responsibility to the interested agencies and their many clients importuning them to grant automatic approval.

"We do need to simplify and streamline government. But to give up decision making in favor of a stop watch?

"Why stop at land use and natural resources? Why not driver's licenses?

"Broader reforms require a more thoughtful look. We should not act hastily in order to create a more friendly business climate at the expense of democratic process and our entire environment -- our land, our infrastructure, our social fabric.

"I would hope that the agencies, in drafting and adopting rules, would find that the tasks given them ought to be subject to a more thorough examination and further dialogue with the public and policy makers."

Representative Herkes then rose to speak in rebuttal, stating:

"An additional comment, Mr. Speaker. One of the things that this bill does is if you're on the wrong side of the political issue on a permit, your application can go to the bottom of a pile and stay there. It has nothing to do with the merit of the application. It has nothing to do with the resource of the department. It is retribution against that project, that individual or that group. And I know that from personal experience, Mr. Speaker.

"And lastly, Mr. Speaker, may I ask for a ruling on a conflict? I work for a land developer and I occasionally get involved in the permitting process," and the Chair ruled "no conflict."

Representative Herkes thanked the Chair.

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

"I'm happy to report that this bill represents a promise kept. Some feel that it has been watered down, but I think we did the wise thing in not tying our agencies to the full ninety days recommended by the ERTF. The recognition that inflexibilities like that might lead to denials of permits is well taken. I do hope, though, that the targeted agencies will not circumvent the intent of this measure. It was meant to stimulate our economy by allowing businesses to know and to reasonably estimate how long it would take to get a permit and how much it would cost. For these reasons, Mr. Speaker, this is a good bill and I'm pleased to support it. Thank you."

Representative Thielen then rose to speak in rebuttal, stating:

"Thank you, Mr. Speaker. I'm just responding to the Representative from Pahoehoe. It's interesting that we have with us this evening a former Chairman of the Board of Land and Natural Resources, Mr. William Paty. I believe he was the Chair of the Board, Mr. Speaker, when the Englestadt house in Lanikai was deemed approved, merely because they did not have a quorum at that meeting, and it received its permit by default. It should never have received that permit, and the Board members were unable to prevent that permit from being issued due to lack of quorum. That's the kind of thing that will be set up under this bill. It's not going to happen to every permit application. It's probably going to happen to two or three and one of them could be the one that my colleague from the Windward side was concerned about. It could be a very major permit. It could be deemed accepted and approved by default. That's not the way that we should do things in this State.

"As I said before, we will have time to look at it again. I think we should reassess this and take a look at what the real problem is, and that's lack of adequate staff to be able to get the permit applications processed. That ball is right in our court if we haven't given the resources to those departments. Thank you."

Representative Say then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Say's remarks are as follows:

"Mr. Speaker, I rise in support of this measure that provides maximum time frames for the review and approval of all permits and approvals and licenses.

"This measure was constructed from ERTF recommendations to improve the Hawaii business environment that is ridden with lengthy and indeterminate time requirements for business and development-related regulatory approvals, and the duplicative nature of the approval process. Although I feel that our Finance Committee had passed out a more comprehensive measure to address this problematic situation, the compromises we agreed to in conference still provides the first step to reducing this bureaucratic process.

"This measure directs all counties and state agencies to:

1. Adopt rules that specify time periods for approval processes;
2. Clarifies informational requirements for applications; and
3. Mandates automatic approval if there is no action within the specified maximum period of time.

"Thus, I am asking you, my fellow colleagues for your support in passing this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2204, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Hiraki, Morita, Saiki, Santiago, Takamine, Takumi, Tarnas and Thielen voting no.

Conf. Com. Rep. No. 144 and S.B. No. 2350, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 2350 SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 145 and H.B. No. 3403, HD 2, SD 1, CD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3403, HD 2, SD 1, CD 2, entitled: "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PROPERTY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 146 and H.B. No. 1824, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 1824 HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 149 and H.B. No. 1800, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 1800 SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CASH MANAGEMENT OF STATE FUNDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 150 and H.B. No. 2800, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 2800, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MANAGEMENT OF STATE FUNDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 151 and H.B. No. 2803, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 2803, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Final Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that S.B. Nos. 760, 2204 and 2350; and H.B. Nos. 3403, 1824, 1800, 2800 and 2803 had passed Third Reading at 9:39 o'clock p.m.

At 9:39 o'clock p.m., Representative Okamura asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:44 o'clock p.m.

STANDING COMMITTEE REPORTS

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1520-98) recommending that S.B. No. 2065, SD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2065, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Second Reading and was placed on the calendar for Third Reading with Representatives Garcia, Halford, Morita and Ward being excused.

Representative Say, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1521-98) recommending that S.B. No. 3075, SD 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 3075, SD 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Second Reading and was placed on the calendar for Third Reading with Representatives Garcia, Halford, Morita and Ward being excused.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 152 and S.B. No. 2386, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2386, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"In addition to the comments I make, I would like further comments inserted into the Journal," and the Chair "so ordered."

"It seems as though it's been years since I have been talking about CCO, and for sure this is the third year. Mr. Speaker and members, you recall that we had passed the CCO bill two years ago and that bill was held in conference. Last year, the Senate did not hear our CCO bill. If we had passed that bill, that bill would have established Hawaii with the highest standards, guidelines and certifications of coordinated care and managed care in the United States.

"Now, we had examined the Oregon plan and the California plan, which are undergoing tremendous reforms there, but also looked at very extensive bills or laws with rules and regulations floating through the bill, such as the Missouri's plan. So what we had done was, we had adopted what we thought would be goals and objectives that all HMOs and others who are interested in developing a coordinated care organization would strive

for. Next we asked the representatives of the HMOs, can you aspire to the goals that we have and standards that we have in the bill? They all said, it's high, but we can strive toward it. We need to do it and they won't be opposed to it.

"Okay, that was last year, so let's look at what happened this year. So we went back to all of those key players in this industry -- the insurers, the employers, the health providers, the labor organizations, and various peoples and individuals who are concerned with the health care -- and what we had done was put together this bill, which is even a stronger bill than we had introduced back in January. I just needed to say that in addition to the 20 something amendments that we had put in, as a result of further discussion, that I just need to highlight couple of things in here, Mr. Speaker.

"One is that we are allowing different organizations to form CCOs in Hawaii. We have just put together a procedure by which these CCOs will be registered, \$10,000, and that this \$10,000 will be put into a special fund through which the DLIR will be able to work with our task force that we have created in this bill to look at the evaluations and improvements that are needed in any of the CCOs as years go by.

"We have also made sure that there would be no increase in the medical fee schedule, and that in our reform bill that we passed three years ago, the Director of DLIR would need to review the medical fee schedule. So she's in a process of getting data from various people to review the medical fee schedule, and if need be, should could recommend to us any increase in the medical fee schedule, which is 110 percent over Medicaid.

"It authorizes employers, and this where we had a good discussion on, an employer can select two or more CCOs for his or her employees. In addition to that, an employee can join the CCO and after initial diagnosis and three visits can opt out of the CCO and he or she can look for his or her own health provider. So we've put it in so you have membership with CCOs and then an opportunity for an employee to back out of that without injuring and hurting the operations of the CCO. For those organizations who wish to form CCOs, they will all fall under the solvency requirements by law.

"The other thing was, we also put in something which is important for employees to have workplace health and safety programs. We've established a task force, as I've mentioned, and they are to look at the CCOs year to year and come up with recommendations for improvements by the year 2002 and make some determination where a law like this should be repealed and/or extended.

"I think this bill further insures that the injured worker and the employer would get the full benefits of this program. I just wanted to point out, Mr. Speaker, that I would like to just commend Mr. Chris Pablo, if he's in the audience, for his part in taking a very major role on behalf of the House committees in order to serve as a collaborator, enhancer, and even a catalyst in reconciling differences for many, many different parties with vested interest in coming up with a bill for our benefit in close consultation with the three committees, in coming up with this very worthy bill. So I wish to thank Chair Say, Finance Committee; Chair Menor, CPC; Vice Chair Nakasone; and members of the Labor Committee for their efforts over the last two years in finally putting a bill and we're going to have a real good beginning. Thank you, Mr. Speaker."

Representative Yonamine's additional remarks are as follows:

"Mr. Speaker, Senate Bill 2386, SD 2, HD 2, CD 1, brings about significant changes in the organization and delivery of health care, services, and supplies for injured workers.

"I believe that the reform of the health care system for workers compensation as spelled out in this bill will aid in the economic revitalization of our State. But of more importance is the delivery of high quality health care to workers injured on the job.

"My Committee on Labor and Public Employment jointly with the Committee on Consumer Protection and Commerce earlier amended the Senate Bill to incorporate our preferred language of HB 2646. The Finance Committee made further amendments during its deliberations leading to the bill we vote on today.

"This measure called the Coordinated Care Organizations bill, specifies guidelines to assist certain groups in forming and owning system of coordinated care and to assist the employer, the workers' compensation insurer, or bargaining unit in selecting a coordinated care organization.

"The system of coordinated care providing coverage for the medical and rehabilitative benefits of a policy required by this bill shall have a number of purposes:

- * Minimize workplace injuries through cooperative efforts among the employer, the insurer, the employee, and the CCO;
- * Provide efficient, cost effective, and timely treatment through a coordinated and comprehensive system of quality health care, including the use of case management;
- * Make available a variety of medical specialties and a choice of providers to the injured employee;
- * Provide a prompt and appropriate return-to-work program to assist the injured worker to reach maximum medical improvement and further, to provide the employer and the insurer with timely medical information, including work return status, recommended work restrictions, projected date of return to work, and degree of medical improvement;
- * Require a CCO to assign a case manager, who must be a registered nurse, to an injured employee who has been under treatment for more than 14 days;
- * Provide a vocational rehabilitation program for employers who cannot return to work; and
- * Establish a program of internal dispute resolution processes to reduce the adversarial nature of workers' compensation.

"Mandatory programs on workplace health and safety are a preventative measure. Maintaining good health and minimizing the risks of injury and illness lead to happy and productive workers while simultaneously reducing costs to the employer.

"The coordinated care organization review task force administratively attached to DLIR is established to ensure a sufficient level of quality care is maintained and to recommend actions to strengthen the CCO system. In addition, the task force will recommend to the Legislature whether or not to extend the repeal date of June 30, 2001.

"Registration fees are designed to ensure that the State, in these austere times, is not burdened with added expenses.

"This measure is similar in intent and purpose to HB 4096 introduced in an passed by the House during the 1996 legislative session and HB 102, HD 2, that was also passed by the House last session. Unfortunately, both measures were held in the Senate and did not receive a hearing. We are now in the third session trying to enact legislation for the benefit of injured workers. It is imperative that the Legislature act on this measure this session.

"This is a bill worthy of strong support from each of you, my fellow Representatives. I urge you to vote in favor of SB 2386, SD 2, HD 2, CD 1."

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

"I'm very glad that employees will now have the opportunity to contract with a coordinated care organization. I think it may help fight the rising cost of medical care, but I do have a concern that because of the opt out policy of this measure, many insurers may not make this type of insurance available if workers can opt out for any reason whatsoever after a definitive diagnosis or three visits. It's very difficult to price a policy when employees can change their pre-paid health plan at will. It's difficult for the coordinated care organization that the employee is leaving, and it's also difficult or impossible to figure costs for the one they will be entering or whether they change to a fee for service plan.

"So that was my only concern on this measure. This provision will only apply to non-union employers and employees that do not have negotiated pre-paid health care plan or a managed care plan. It is a concern, but I hope that this measure does work.

"Thank you very much."

Representative Yonamine then rose and stated:

"We have talked to the representatives of the health maintenance organizations to see if the mass exodus of people opting out of CCOs would create a havoc in for its enrollment procedures and their budget for sure. It could hurt or hamper the CCOs from operating effectively.

"We have been assured that in a great majority of cases, employees would join the employers CCO plans and that it would be unlikely that they would then jump and opt out of the employers CCO plan. So we've been assured that this will not at all hurt the operations of the CCO by its own past records and what they have seen so far. So given that investigations, we feel that we have something strong. We need to investigate the way CCOs are going to be operating for the next several years, and that's absolutely true. We still need to have our oversight function in place. We have the registration fees put in. It's a multi-million dollar industry as we all know. I think that with proper evaluations and monitoring we will be establishing a very good health plan for the State of Hawaii. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2386, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Takamine voting no, and Representative Souki being excused.

Conf. Com. Rep. No. 153 and S.B. No. 2689, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 2689, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES RETIREMENT SYSTEM," passed Final Reading by a vote of 50 ayes, with Representative Souki being excused.

Conf. Com. Rep. No. 154 and H.B. No. 3625, H.D. 3, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 3625, HD 3, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

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

"You know the best part about this bill is its title, Government Reorganization. That's what was promised us on Opening Day, Mr. Speaker, by the prior Mr. Speaker, Mr. Speaker. You know if I take a look at some of the notes, some of his remarks, it was said that 'we would continue to streamline government even more. We will mandate that vacant government positions not be refilled unless absolutely necessary to the core functions and services of government.'

"The other remarks that were said on that day, on Opening Day by the Speaker of the House was that 'we will restructure collective bargaining and civil service laws to improve management and facilitate merit-based personnel actions.' It was promised and I quote, 'we will eliminate unnecessary boards and commissions.' You know, Mr. Speaker, this bill creates two new ones. It shuffles a couple of functions and prohibits the shuffling of a few others.

"We could make a pretty compelling argument, Mr. Speaker, that this bill is not germane to its title. It is government reorganization, but another bill, is that where it might be? I mean real reorganization, not just reshuffling those famous deck chairs on the Titanic. You know, I haven't found it, and an iceberg is getting closer, Mr. Speaker.

"The Governor in his State-of-the-State noted, and I'm going to quote: 'Like the ancient Hawaiians, we know we cannot control the storm, but we can control our boat and where and how we steer it.' You know, I agree with him, as do my colleagues in the Minority Caucus, but we don't see any signs of control and we think the ship of State my sink."

Representative M. Oshiro then rose on a "point of order," stating:

"Is the current speaker speaking for or against the bill."

Representative Kawanakoa responded: "In the beginning of my remarks, I stood with reservations in support of this measure, but with a few reservations.

"Mr. Speaker, the people were promised a more efficient government. They have not fulfilled that promise. Mr. Speaker, Republicans would have given it to them, to the people of Hawaii. Thank you, Mr. Speaker."

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

"The Minority Leader has made a very good point. It seems that the title of this bill barely describes the bill as

it exists now. I have one very specific problem with the bill other than the fact that all the transfers of various departments and consolidations have been eliminated. The one that did remain is the transfer of the aquaculture program from DLNR into the Department of Agriculture. I'm a strong supporter of the aquaculture program. It's done a tremendous amount of good and helps the growth of the industry. I see that through the Conference Committee all money that was appropriated for that aquaculture program has been eliminated.

"So my theory is that we've moved it there, given it no money. I don't know that any of the people that run the program at DLNR would be moved to the Department of Agriculture because there's no money being sent for them and it looks like it's a transfer on paper, but nothing is truly going to happen. I really have grave concerns for the industry if those people are no longer involved. So for that reason, I'm voting no on this bill. Thank you, Mr. Speaker."

Representative Jones then rose to speak in strong support of the measure, stating:

"The primary purpose of this bill is to consolidate various agricultural and aquacultural programs and to enable the Department to operate more effectively. Initially, we did have other items in this bill which streamlined the Department of Agriculture to make it more pro-active and less regulatory. We were not able to get all of the items in this bill, but we will continue again next year to get them in.

"Basically what this bill does is it consolidates our aquaculture programs by moving the aquaculture program and the Aquaculture Advisory Council from the Land Department to the Department of Agriculture. Presently, the aquaculture programs are housed in both departments. This measure consolidates the aquaculture program and places them within the Department of Agriculture. Initially, we planned to put an appropriation in this bill to provide the funding necessary for the aquaculture program, but when the money committees met they decided to put the funding for this program in the State budget bill. So the funds for this program are provided in House Bill 2500, the general appropriation bill for the next fiscal year.

"This bill also abolishes the ADC, Agri-business Development Corporation Board, to become effective on July 1, 1999. The idea is to eliminate this Board because it's really a duplication of the Board of Agriculture, but under this bill we keep the pro-active functions of the Agri-business Development Corporation. The staff and the funds for the staff are provided in the budget and after July 1, 1999, then the ADC Board is abolished. The staff then reports to the Board of Agriculture to make the program, again, more effective.

"Mr. Speaker, another real important feature of this bill that you don't find in any other department is the ability to have the Department of Agriculture call together a task force, pulling personnel from other departments within the State to address emergency issues that occur more and more commonly in agriculture. This emergency power is really necessary because of the transition of agriculture as we downsize the pineapple and sugar industries and go more and more into diversified agriculture, the ability to address water issues, problems of transportation, marketing, jobs, and even such issues like, should the brown tree snake come to Hawaii? The Board of Agriculture will have the capability to put together task forces, pulling staff from other departments to address these issues.

"So Mr. Speaker, this is a real important bill that sort of streamlines our agriculture program and begins to give the Department of Agriculture the powers that it needs to really develop a solid, strong diversified agriculture for the State of Hawaii.

"Thank you, Mr. Speaker."

Representative Thielen then rose and stated:

"Mr. Speaker, would the Chair of the Agriculture Committee accept a question? I'm a little bit confused because earlier tonight we returned the Waiahole water..."

The Chair responded: "Representative, if you would like to ask a question, we'll take a very short recess."

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

The House of Representatives reconvened at 10:15 o'clock p.m.

Representative Thielen then rose and stated:

"Thank you, Mr. Speaker. As I understand it, earlier tonight we passed House Bill 2990, which allowed the ADC, the Agri Development Corporation, to take over the Waiahole Water Ditch. Then as I understand it now, under this government reorganization bill, we're eliminating the ADC after one year. So under this legislation, ADC takes over the Waiahole Water Ditch and under this bill, ADC is eliminated and the Waiahole Water Ditch goes to the Department of Agriculture to then own and operate. If I am correct, Mr. Speaker, if I may just ask the Agriculture Chair."

The Chair responded: "Representative, why don't you continue with your comments."

Representative Thielen continued, stating:

"Well, I voted against the first bill because I felt that it was appropriate for ADC to take over the water ditch. I don't know if it's going to make it any better to have the Department of Agriculture step into the shoes of ADC in one year. It just seems to be a rather strange way of operating. Why wouldn't we, at the onset, say that the Department of Agriculture would be the one that would become involved in the Waiahole Water Ditch rather than giving it to a body that's going to go out of existence and maybe not even be that interested in performing the functions it is supposed to under that earlier bill? I will wait to hear if the Chair of the Agriculture Committee has any light to shed on all of this, Mr. Speaker. 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. 3625, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT REORGANIZATION," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Meyer voting no, and Representative Souki being excused.

Conf. Com. Rep. No. 155 and S.B. No. 2254, SD 2, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 2254, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Final Reading by a vote of 50 ayes, with Representative Souki being excused.

Conf. Com. Rep. No. 156 and S.B. No. 2966, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2966, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative McDermott rose in support of the measure, stating:

"This is a good fee -- a fee on criminals. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2966, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL INJURIES COMPENSATION," passed Final Reading by a vote of 50 ayes, with Representative Souki being excused.

Representative M. Oshiro then rose and stated:

"I rise to speak in support of Conference Committee Report No. 156, Senate Bill No. 2966, Criminal Injuries Compensation Fee."

The Chair asked: "That's Conference Committee, what number again?"

Representative M. Oshiro responded: "Conference Committee Report No. 156."

The Chair responded: "CCR 156 was on page 4, we're on page 5."

At 9:56 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:01 o'clock p.m., the Vice Speaker assumed the rostrum.

Representative M. Oshiro rose and stated:

"Mr. Speaker, I believe that we've already passed that bill so I yield the floor to the Minority Leader."

The Chair responded: "Prior to this Representative Kawanakoa, Representative Case."

At this time, Representative Case was permitted a late introduction, and he introduced his parents, James and Suzanne Case.

Conf. Com. Rep. No. 157 and S.B. No. 3220, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 3220, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," passed Final Reading by a vote of 50 ayes, with Representative Souki being excused.

Conf. Com. Rep. No. 158 and S.B. No. 2092, SD 1, HD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. 2092, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX LAW," passed Final Reading by a vote of 50 ayes, with Representative Souki being excused.

Conf. Com. Rep. No. 159 and H.B. No. 2750, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2750, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Meyer rose and stated:

"I would like to register a 'no' vote on Conf. Com. 159, House Bill No. 2750. This had to do with general obligation bonds. The reason I'm voting 'no' is because some of the bonds that are identified in that bill are the bonds to buy the Waiahole Ditch. It's as if you had a dessert and somebody's spat in it, in one side of it, you still wouldn't want to eat the rest of it. That's how I feel about these bonds. 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. 2750, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Meyer voting no and Representative Souki being excused.

The Chair directed the Clerk to note that S.B. Nos. 2386, 2689, 2254, 2966, 3220 and 2092; and H.B. Nos. 3625 and 2750 had passed Third Reading at 10:20 o'clock p.m.

At 10:20 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 10:30 o'clock p.m., the Speaker resumed the rostrum.

Conf. Com. Rep. No. 160 and H.B. No. 1533, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 1533, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 161 and S.B. No. 2213, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2213, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Yonamine then rose in support of the measure, stating:

"Thank you, Mr. Speaker. After TAT, what's more exciting -- sex and then privatization? I need to just remind my colleagues that this bill is merely the first step. It's a beginning. We need to review this bill or this act for the next three years to make sure that the intent and purposes of our bill to look at the efficiency of government, and the ability to privatize when the opportunities call for them by State and government, are in fact put into play.

"The bill contains three parts. First, it creates, and this is also part of the House Bill that we passed -- 3199 -- a committee to look at the executive departments, developing and implementing a performance-based budgeting system. That is much needed. We've talked about it for several years now. What this does is it requires a committee, by the end of December 31, 1999, a year and a half from now, to select three departments diverse in function, and to develop the mechanism by which they would complete the performance-based budgeting.

"And thereafter, for the next three years, they would be able to move quickly through all of the other departments and entities to come up with this performance-based budgeting. So by the year 2001, I think we will be able to see what services are efficient when measured with evaluation balance so that we have data to justify and certify services that are needed, services that shouldn't be, but enough data for the House and Senate to proceed with its own budgeting.

"The other part creates the managed process that we've talked about, and privatization. This is a 13 member committee to be appointed by the Governor to look at the process by which State and County governments can implement public and private competition for government services. And it's a managed process that determines whether that particular service can be provided more efficiently and more effectively and economically, of course, or are they a public agency such as State and government, or a private enterprise.

"This 13 member committee is composed of the three people from the Governor's cabinet -- Budget and Finance Director, DAGS Director, Director of DHRD; four representatives from each of the counties to be appointed by the mayors; two members of the public employees' union; one member of the private sector union; two members from the business community; and one member representing the non-profit social agencies. We had to take a look at all of these contracts upon its termination and determine whether these should be renewed, terminated, and make some assessment as to whether they should be continued in government or it should then be put up for privatization.

"The other part then is, how does this privatization take place? This bill enables all existing contracts -- State and county -- that these should not be under a one-time review by the managed process committee, but it would be at the end of its contract. For example, the life of the managed process committee is three years. If the contract runs for five years, that one-time review would not be done until it terminates, which would be five years down the road rather than the three year period of 2001. I think this gives the county and State governments quite a bit of freedom and flexibility to continue its contract without going into all of the one-time review prior to the ending of that contract. I think in our business we all go through evaluations anyway. So I think this is important.

"The other thing here is, any long-term contracts can then be extended. The ones in particular -- the power plant project and the landfill projects -- run anywhere from 25 to 40 years and this will give the opportunity for county governments to continue its contract over a long-term period. All existing POSs in social services would continue and that any challenges in court, there's 10 right now, would not be undertaken during the time of this managed process committee.

"I think this is a bill we can't always be happy with, okay, because it leaves short the ability of State and county governments to privatize, which they've been doing already, but to privatize in the future. We're not too sure about the outcomes of the managed process committee. We may end up with a Majority and Minority report. Who knows? But what it does in this bill is that the Legislature can look at it next year and for the next three years to make sure that government services are either done in compliance with the Konno vs. Big Island decision or it could be privatized.

"So I would urge my colleagues, Mr. Speaker, to support this bill and let's keep our eyes and ears open for this one. Thank you."

At 11:37 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:42 o'clock p.m.

The Chair stated: "With a caution to the members, if you could make your speeches real quick."

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

"You know, my concerns are that we came up with a very simple decision. We needed to tell the Supreme Court of the State of Hawaii that it was our intent to allow the executive and the executive branches of the counties, the mayors and the counties, to be able to use the tool of privatization. It was clear.

"Mr. Speaker, I've been a strong advocate of the use of the private sector within government. Competition in government was mentioned by the Chair of the Labor Committee as a way to look to, to reduce the waste in government. I've been bringing this notion to the Legislature since the first day I got here. As we know, I had a forum on the use of the private sector within our prison system.

"Mr. Speaker, on Opening Day there were promises made by people who were less optimistic than others, that I've mentioned today that we will continue our privatization efforts without undermining our merit principles. I have to state that the House took the right position and this time the problem was in the Senate, Mr. Speaker. We did what we could. I should note that my colleagues, my counterparts in the Senate, were in favor, were in line with the House position to simply allow the use of the private sector, plain and simple. And that's what should have passed.

"Thank you, Mr. Speaker."

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

"I will be inserting my remarks into the Journal, but I want to discuss that there are some major bills on this page that we all would like to address. And I'm afraid that we may not have the time to do it, but I will insert my remarks for the record," and the Chair "so ordered."

Representative Marumoto's remarks are as follows:

"The good news is that we have a privatization bill. The bad news is that it is not as strong and as clear as needed by State and county governments.

"We need to contract with private entities when it is in the best interest of the voters - taxpayers. Sometimes it is with solid waste companies, sometimes with sheltered workshops or other social service agencies, often with architects, contractors or consultants or tree trimmers.

"But apparently we have a bill before us which comes up short in several categories.

"We don't need a bill which creates uncertainty in this function. We don't need to write contracts that are second guessed by a private/public managed competition review process committee after three years!

"We shouldn't have to worry that existing contracts will be challenged in court in the short time before this bill is signed into law by the Governor!

"We shouldn't have to worry that long-term contracts that are or are not inked in time could be terminated later.

"What is needed is a simple bill that simply allows state and local governments to contract with the private sector whenever a function is short term, or can be executed faster, better and cheaper by a private non-profit, for profit business or agency.

"As long as we promise to retain our loyal public servants in another capacity and provide training for another job, why not provide this flexibility - especially when we are strapped for funds and especially when we lack money even for public employee pay raises?

"We are also promising displaced civil servants continued employment. That pledge should be sufficient. But to further promise that an employee can decide to return to the original job is absurd. The job and the program may be obsolete and no longer in existence.

"I still think Hawaii has a great civil service, but we probably have more civic servants than we can afford at the moment. The vast majority are competent, dedicated and hard working. However, we must adapt to the times, and the circumstances that we face today. We need their help now, and we don't need labor leadership that works against the people of Hawaii.

"Unfortunately I can say 'I told you so.' Many years ago, I remember stating that we should not be hiring so many new people because I felt strongly that we should take care of those already employed. In other words, our hardworking government workers deserve a pay raise now, but we now don't got the money. We did not have the vision then to see the sad result we find ourself in today!

"Despite the rhetoric, we are not cutting personnel and programs to the extent necessary in the supplemental budget. So more than ever, we need to be able to outsource some of the functions of government. I really hope this measure will enable this to happen."

Representative Yamane then rose and stated:

"Yes, Mr. Speaker, I'll make this quick. I stand in full support of Conference Committee Report No. 161, Senate Bill No. 2213, Senate Draft 2, House Draft 2, and with reservations on CD 1."

Representative Ward then rose and stated:

"I rise with no reservations in opposition. Mr. Speaker, Gary Rodrigues has been called the 26th Senator. This bill shows that he is alive and well and what we intended to do we have not done. And quite frankly, I think we've missed the boat in what the ERTF and all the sense of getting ourselves right and ready for the private sector.

"The difficulty with this bill is I don't trust the language in it. I don't trust a commission for what otherwise is going to be arbiter of the contracts. Even though they admit that 90 percent of the contracts are one year, they're manini, they're small, and this bill will take care of them and it will hurt them. But where the pay is and where the money to be saved in privatization, this bill will bite them and hold them at bay because it can cancel them, modify them, or otherwise do anything they want with them. And that's when you have government by bureaucracy. It's not the best government for what we need to have happen. So if we're going to save money, we have to have privatization. If we don't have

privatization, we don't need a bill as swishy and squishy as this one, Mr. Speaker. Thank you."

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

"Can I make a couple of statements? This may not necessarily be the best bill that the House would have preferred. The status quo, however, would have favored the Senate on this issue. The ideal would have been that the House position, as reflected in Senate Bill 2213, House Draft 2, be adopted.

"Mr. Speaker and members, we can still get that measure if the Senate recommits this Conference Draft and moves to agree to House Draft 2 of Senate Bill 2213. They still have time to do it. Thank you."

The Chair responded: "Don't hold your breath."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2213, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE GOVERNMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 162 and H.B. No. 2648, HD 2, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2648, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Case rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Case's remarks are as follows:

"Mr. Speaker, my remarks are first in general support of this measure, second to provide clarification on one point, and third to express concerns over unfinished business.

"I support this bill because it does technically address the situation which has arisen from the Supreme Court of Hawaii's decision in the Mitchell case. Essentially what that decision said was that the Legislature needed to act affirmatively to statutorily foreclose workers' compensation claims relating to stress caused by employers' disciplinary actions. This bill does provide, as have other states, that disciplinary action taken in good faith by employers may not subject employers to stress-related workers' compensation claims. The net effect will be to allow employers to manage their human resources effectively.

"The needed clarification relates to the language of the bill covering collective bargaining agreements. A recent newspaper article implied that all employees party to collective bargaining or other employment agreements were exempt from this measure and instead subject to those agreements. That is not accurate. This bill, inclusive of the good faith standard, will apply to all employers and employees, inclusive of parties to collective bargaining or other employment agreements, except in the narrow circumstance where parties to collective bargaining or other employment agreements have affirmatively agreed that a standard other than the good faith standard will be utilized to evaluate whether an employer's disciplinary actions may provide compensability for resultant stress.

"The concerns relate to the restriction of this bill for now to 'disciplinary actions.' The House version had

proposed to extend the applicability of this measure to 'other personnel actions' as well, and the House, in conference, in order to meet Senate concerns over the extent of 'other personnel actions,' offered further to define that term as 'counseling, work evaluation or criticism, job transfer, layoff, demotion, suspension, termination, retirement or other action associated ordinarily with personnel administration.'

"The House's goals were graphically illustrated by a summary provided by the Attorney General of pending state employee stress related workers' compensation claims arising from non-disciplinary personnel actions which reflected a clear pattern of employee claim abuse. The Director of the Department Human Resource Development further stated that the number of post-Mitchell non-disciplinary action claims which the state had been forced to re-evaluate as a result of Mitchell was up to forty and growing.

"Yet with all of this the Senate conference co-chairs (with the active disagreement of their own conferees and other colleagues) refused to accede to the House's position to extend this measure to other personnel actions as well. It is obvious that, human nature being what it is, by the time the 1999 Legislature is underway this abuse will have reached epidemic levels and the Legislature will have to complete this unfinished business."

Representative P. Oshiro then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative P. Oshiro's remarks are as follows:

"Prior to the now infamous Mitchell Supreme Court decision in 1997, claims for stress caused by disciplinary action were generally not compensable under Hawaii's workers' compensation system. The Supreme Court indicated in this ruling, that without any expressed statutory exception for workers' compensation mental injury claims, that the court will be compelled to allow the settlement of these types of claims.

"The intent of this bill is to provide this expressed statutory mandate to prohibit any worker's compensation claim for mental stress resulting solely from disciplinary action taken in good faith by an employer. In addition, this bill provides that if a collective bargaining or other employment agreement allows for a standard other than good faith for disciplinary actions, then that agreed upon standard shall be applied.

"This bill will re-establish a prototype of the pre-Mitchell prohibition against stress claims for disciplinary action. It is anticipated that this measure will significantly minimize the number of stress claims filed and compensated in light of the Mitchell decision. In addition, with the passage of this bill, workers' compensation insurance premiums which were expected to increase in order to accommodate these stress claims, would be stabilized.

"While I would have certainly preferred a final version of this bill which was similar to the original House position which included a good faith standard for both disciplinary and other personnel actions, I recognize that in this bicameral legislative system of ours, that finding common ground with the other body is necessary in order for any measure to be enacted into law. This bill is certainly no different, as it reflects a true compromise between both the House and the Senate on this matter. To wish for language which is stronger would be ideal, but unfortunately, under the present circumstances, this is not realistically attainable.

"In addition, I also realize that to have let this bill die simply because both sides were not willing to compromise and to find common ground in this issue would have aggravated the present 'no standard for stress claims situation.' Should a measure codifying stress claim standards not be passed this legislative session, it is conceivable that a significant number of these types of stress related workers compensation claims would be compensable with very little exception, pursuant to the Mitchell case law precedent. I truly believe that this compromise bill will have a positive impact upon our worker's compensation system by establishing an exemption for stress related claims and thus stabilizing premiums for Hawaii's business community."

Representative Meyer then rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker. I rise to speak with reservations on HB 2648 HD2 SD1 CD1. My problem with this bill is that it is supposed to address the concerns raised by the Mitchell case. However, rather than providing us with a clear and equal solution, the bill creates a confusing double standard for denying workers' compensation for mental injuries caused by stress that is a direct consequence of a disciplinary action for just cause.

"As this bill reads, any claim for mental stress resulting solely from disciplinary actions taken 'in good faith' by the employer shall not be allowed. Now, that sounds pretty straight-forward, doesn't it. And, if the proposal had been left at that, then we'd have a clear, unequivocal solution to the problem. But, the unions had to get their two cents in here as well, so the bill goes on to provide that where a collective bargaining agreement specifies a different standard [whatever that standard may be], the standard established in the bargaining agreement shall be used 'in lieu of the good faith standard.'

"Double standard. Confusing standards. Just what we need, right?

"I'm voting for the bill with reservations, however, because I do see the 'good faith' standard as reasonable, and it will work, at least for private non-union employers. I remain concerned about the other standard and can only hope that, in the future, negotiators will push for the 'good faith' standard in collective bargaining agreements."

Representative Pendleton then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in support of Conference Committee Report 162 and the attached House Bill No. 2648.

"Mr. Speaker, as we all know, the Supreme Court interpreted our statutes to permit claimants to receive workers' compensation benefits when they sustain work related stress in the course of appropriate employment related discipline.

"In other words, Mr. Speaker, the Supreme Court stated that an employee who engaged in inappropriate conduct while on the job could not be disciplined without risk of having that employee eventually suffer stress and filing a workers' compensation claim.

"I support the instant measure, House Bill 2648, as it will address this issue. I do feel, however, that the bill could have been better. I would have preferred an earlier House Draft. For example, the present legislation, which is C.D. 1, provides that a collective bargaining agreement could provide for a different standard than the 'good faith' standard.

"This means that various employees will be treated differently depending on what their contract or agreement says. How is an employer to operate under such a regime? The workers' compensation system was a bargain. Injured employees would have immediate medical care and wage loss benefits without regard to fault. Employers would be insulated from lawsuits arising out of employer negligence. Of course our statute has an exception, but discussion of that is beyond the scope of this bill.

"Suffice it to say that a bargain or trade was struck between all employers and all employees in this state. That bargain is reflected in insurance costs spread among employers. Now that there will be varying standards, we will have to eventually respond to the insurance carrier's response to this legislation.

"Our workers' compensation system never contemplated such a decision as the Mitchell decision. We should have just reversed the decision with a clear and unambiguous statute.

"For the foregoing reasons, Mr. Speaker, I support the measure, though not without a few concerns as aforesaid."

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

Representative Yamane's remarks are as follows:

"I appreciate the work and perseverance of our Labor Chair to address this concern. This is another example of the Senate watering down the final version, as in S.B. 2213 and S.B. 2386. This bill does address disciplinary employment action, but what about the larger spectre of normal personnel actions taken by management? The Mitchell decision sent a clear signal that all personnel management actions were in jeopardy of a workers' compensation claim.

"The Senate Labor Chairs are clearly disregarding other states' actions on this major business issue."

Representative Ward then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Ward's remarks are as follows:

"This bill was designed to undo the damage done by the ill-advised Mitchell decision. This bill almost did that. We've wimped out when we allow passage in the current form.

"This bill allows for stress-related workers' compensation if it's written into the union contract. Will the unions abide under the 'good faith' standard? As bears go to honey, the unions will go to the 'just cause' standard instead of the 'good faith' standard.

"This is just a back-door to get around a 'good faith' standard."

Representative Kawanakoa then rose in support of the measure with reservations and asked that his

comments be inserted into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"In your Opening Day remarks, Mr. Speaker, you said: 'The issues will be tough. But we will be tougher.'

"This issue wasn't even very tough -- people who are disciplined at work should not be able to claim worker's comp for stress.

"Mr. Speaker, you were tough enough to send a bill over to the Senate to stop once and for all this outrageous practice, and we were happy to wholeheartedly support the House position.

"Maybe toughness isn't enough. The Senate apparently was tougher.

"Republicans have concluded that the failure of this bill to adequately address the Mitchell decision wasn't a question of who's tougher, but rather a question of leadership.

"Republicans would not have allowed special interests to stand in the way of common sense. The carefully managed attrition we proposed to fund it would have allowed us to make reasonable cuts to our budget and would have resulted in a smaller and better State government.

"I am happy to support this bill, but I can only wonder if it will do anything at all to fuel our economy. The Republican Tax Plan would have."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2648, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 163 and H.B. No. 2563, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2563, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Stegmaier rose and stated:

"House Bill 2563 -- this is a very strong measure on school-based budgeting."

Representative Pendleton then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I support House Bill 2563 because it makes sense. I believe that the ERTF was correct in asking us to bring our school boards closer to the people. We should have gone with their recommendation. We should be in the business of empowering teachers, empowering schools, getting back to the basics and away from the bureaucracy. We cannot solve problems in a top-down fashion. Administrators too far removed from the classroom cannot have the same understanding and appreciation for a particular set of circumstances as those nearer the students.

"At least with this bill, however, we have begun to look at empowering schools. House Bill 2563 provides

additional guidelines to ensure implementation of school-based budgeting beginning with the fiscal biennium 1999-2001. The bill requires that information be gathered and reported on the efficiency of individual schools. Eventually we will be able to use this information to be more efficient in our resource allocation. I hope that we will examine programs such as the one in Texas which creates incentives for excellence.

"I ask that my colleagues join me in supporting House Bill 2563."

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

"I sat on the Conference Committee and I think that if I did not, I probably would have voted it down. Mr. Speaker, just to let you know that the school-based budgeting, budget flexibility bill, asked to give the operating budget preparation and allocation process for the schools maximum flexibility and in the execution and preparation of their schools operating budget. But Mr. Speaker, it does say that the schools have not implemented Act 272. And the reason I believe the schools did not complete it is because they are overwhelmed.

"I'd like to say that to do all of the kinds of things that they ask you to do is really micromanaging schools. And let me just read from this bill one section which had disturbed me a lot. And it says such things as 'the financial requirement shall be presented to the nearest dollar, omitting cents and the summary of State receipts and revenues shall be presented to the nearest thousand dollars. The budget shall reflect the insuring first two fiscal years.' So this is the kind of thing that is included."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2563, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL-BASED BUDGETING," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 164 and H.B. No. 2564, HD 1, SD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2564, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Pendleton then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in support of this measure. This measure is an ERTF measure. But it is only a shadow of what it could have been.

"Mr. Speaker, the ERTF wanted us to get serious about education. They recognized that the future of our State depends on education. If you wish to have a skilled labor force, you must first have good schools. If you want to have certain counter-cyclical capabilities, you must first have citizens who can adapt to change and who can retool and retrain themselves or who are amenable to such changes.

"Mr. Speaker, the ERTF asked for the establishment of the goal of a second language competency for all high school graduates by the year 2004. They were ambitious in their goals but exceedingly reasonable in their timetables. I thought we should have, and I continue to

think that this measure should have been passed verbatim.

"What does the present bill do? It sets up a temporary commission on educational accountability. This is a far cry from the intent of the bill. I support this legislation. Who can be against looking at educational accountability? Certainly not me.

"But, Mr. Speaker, I would have preferred the establishment of the goal of a second language competency for all high school graduates by the year 2004. We are in the middle of the Pacific. We should be the gateway to Asia, to the Orient. But instead we read in the media that Washington State has managed to claim that title. Only when we get serious about fixing our broken school system will we have a hope of grasping such a title. Situated as we are in the Pacific Rim, we will fall further and further behind unless our workforce is able to interact effectively with the rest of the non-English speaking world.

"Mr. Speaker, the ERTF also urged us or proposed for us to establish computer literacy. They suggested that all 8th grade students be computer literate by the year 2000. Again, they were rightly and correctly ambitious in their goals and eminently reasonable in the timetable.

"Yet even at this we balked. Why? The private sector went above and beyond the call of duty. They offered to commit \$10,000,000 to this effort. They would provide a computer and/or the necessary technology and software to teach computer skills. Mr. Speaker, we all use computers each and every day. This is a fact of life in 1998. Imagine what the world will be like in the 21st century? I can only imagine that computer literacy will become increasingly more vital in years to come.

"The bill, as I read it, only establishes the temporary commission I referenced earlier, authorized the DOE to employ retired teachers, and authorized the BOE to assess a deposit fee for all school books. What happened to computer literacy? Am I missing something here?

"The private sector met us more than half way and we couldn't even get a bill passed that would ensure our keiki would be computer literate.

"I want to thank Bank of Hawaii and First Hawaiian Bank for their generosity, their civic-mindedness, their commitment to Hawaii. As one of my dear friends and distinguished colleague says, 'Always for Hawaii.' These banks, and many others, have shown that there are people who care deeply about Hawaii's future. I should also mention Tom Leppert. He has done a tremendous service to this State. I have heard him speak about the ERTF plan and was truly inspired. I only wish that we passed more of the education, restructuring, and privatization proposals and all of the tax reduction proposals.

"I support this measure, Mr. Speaker. I have been open and candid with my concerns. I don't think this is a bad bill. House Bill 2564 is certainly better than nothing. It just does not go far enough. We turned something bold and dramatic into something that actually does very little.

"I hope with all my heart that we revisit this issue next session. I take heart knowing that this is the first word on this subject, not the last.

"Thank you, Mr. Speaker."

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

"On this bill, I have a positive with reservations. (Spoke in a different language). Which means, Mr. Speaker, if this bill were to pass by the year 2001, we would have computer literate and a bilingual Asia-Pacific people. But we've turned this thing into something that's never recognizable from what it was in the beginning as the ERTF to say, let's have a bilingual Asia-Pacific housed here in Hawaii. Thank you very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2564, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 165 and H.B. No. 2749, HD 1, SD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2749, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Pendleton then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Pendleton's remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 2749, HD 1, SD1, CD1, which relates to taxation. This bill is or was part of the Economic Revitalization Task Force or ERTF package.

"Mr. Speaker, I use the term was because this particular bill bears very little resemblance to the original proposal. Specifically, the ERTF suggested that we cut personal income taxes by lowering the top rate to 6% from 10% and suggested that we reduce or eliminate the tax pyramiding on the services side of the general excise tax and suggested cutting corporate or franchise taxes in half, that is, by 50%.

"Mr. Speaker, this original proposal was a bold and dramatic one. It was designed to stimulate the economy by infusing the private sector with capital. This capital might come in the form of increased spending, investment, or savings. This is because families would use their tax reductions. The money would not be hidden beneath the bed but would be put back into the economy in some fashion.

"Unfortunately, Mr. Speaker, the bill we have before us is not as bold, not as decisive, and may ultimately not have any where near the necessary positive impact it otherwise could have. I support it, however, without reservations. It is certainly better than a tax increase. I opposed all tax increases, as you know, Mr. Speaker.

"What is it that I support? This bill changes the income tax brackets and rates and phases them in over a four-year period so that the top income tax rate will be 8.25% in the year 2002. This reduction will go into effect beginning after December 31, 1998, which means that the stimulus, if any, is delayed. The bill further repeals the food tax credit, replacing it with a new low-income refundable tax credit. This, as I said, is disappointing in that it bears little resemblance to the package I described earlier. But it is better, perhaps only marginally, than the status quo. I will certainly revisit the issue of taxes next session, Mr. Speaker. And I believe I have colleagues on both sides of the aisle who agree that this is not the last word on tax reduction.

"Mr. Speaker, permit me to share some of my thoughts on tax reductions generally. I offer these thoughts because I think it is important for the people of Hawaii, important for my constituents, important for the ERTF members, to see what my thinking is on this topic. It is not enough for them to know that I genuinely and sincerely support tax reductions. They deserve to know why I am so committed to cutting taxes.

"Mr. Speaker, at the beginning of the session I wrote in a Filipino publication that the discussion prompted by the recommendations of the Economic Revitalization Task Force (ERTF) appears to be maturing to an overwhelming consensus, namely, that lower tax rates will spur economic growth. There are those who would, however, vehemently disagree with this consensus, arguing that Hawaii's economy is not performing as badly as we think and that the proposed tax cuts would only make some taxpayers better off while needlessly increasing the pressure to slash necessary government programs. In short, opponents of the proposed reductions do not believe that economic growth follows from tax cuts; they deny any connection whatsoever between lowering tax rates and increased economic activity.

"I was absolutely correct about the excitement that surrounded the debate on tax reductions. Reasonable minds can disagree on such matters, and there was a lively debate. I have shared some information in different forums. Let me do so here. This is why I believe that cutting taxes is good for our economy.

"Mr. Speaker, according to a report prepared by Richard K. Vedder, Distinguished Professor of Economics at Ohio University, the experience of the states over the past third of a century provides a unique laboratory for investigating the effects of tax policy on economic growth. He observed that higher state and local taxes had a distinct and significant negative effect on personal income growth over the period extending from 1960 to 1993. That is, when state and local taxes were raised, personal income growth slowed markedly. By the same token, states with lower taxes enjoyed substantially higher personal income growth. In addition, Mr. Speaker, Professor Vedder concluded that low-tax states grew nearly one-third faster than high-tax states and that income taxes have a particularly adverse impact on income growth.

"Mr. Speaker, because of Hawaii's history of raising taxes, there are no local examples which prove that tax cuts provide an economic stimulus. Nevertheless, there are numerous other states which have cut rates in order to strengthen and stimulate their weak economies. California, for example, began in the early 1990s to cut tax rates and government spending dramatically. New Jersey followed suit. Today both states are reported to be doing very well, with strong, vibrant economies and increased revenues not from increased rates, but from increased economic growth at lower tax rates.

"On a national level, the United States cut federal tax rates in the 1960s and more recently in the 1980s. A close examination of the consequences of such cuts in tax rates strongly suggests that tax rate reductions are instrumental in stimulating economic growth.

"Mr. Speaker, there is one positive side to the discussion we have had so far on House Bill 2749, and that is that we have finally been able to move forward beyond the Republican and Democrat rhetoric. We have been able to agree in a non-partisan fashion that tax cuts are not only reasonable but are necessary. The ERTF was appointed by Democrat elected officials. I do believe, then, that it is safe to assume that the composition was acceptable to the Democrat elected

officials. And yet they put forward a very Republican-sounding plan. The package spoke of tax reductions, streamlining and privatization of government, and the like.

"It is refreshing, Mr. Speaker, to see that this State is big enough to tolerate those who believe in cutting taxes. And it should be no surprise that a Democratic state can come up with the idea of cutting taxes.

"Mr. Speaker, we have historical examples of Democrats supporting tax reductions. For example, Democrat President John F. Kennedy proposed federal tax rate reductions in the early 1960s. In June of 1962, he held a press conference where he indicated that he would introduce a tax reform package which would be an across-the-board reduction in personal and corporate income tax rates. In January of 1963, he introduced his package, which secured passage the following year. Specifically, the top rate was reduced from 91% in 1963 to 70% by 1965. Following these cuts America experienced arguably one of the longest economic expansions in our nation's history. According to prominent economists, between 1961 and 1968, the inflation-adjusted economy expanded by more than 30%. Economic growth averaged more than 5 percent a year.

"Mr. Speaker, as President Kennedy stated during a speech to the Economic Club of New York on December 14, 1962, the purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring a budget surplus.

"In the same vein, Mr. Speaker, President Kennedy stated: 'Our tax system siphons out of the private economy too large a share of personal and business purchasing power.' Surely the lesson of the last decade is that budget deficits are not caused by wild-eyed spenders but by slow economic growth and periodic recessions. In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low.

"While some at the time worried that income tax reductions would result in little more than a give-away to certain economic classes, the share of the income tax burden borne by the rich during this period actually increased, according to studies by the Heritage Foundation, a Washington, D.C. public policy research institute. Between 1963 and 1966, Internal Revenue Service reports indicate that tax revenues from families earning below \$50,000 rose 10% while revenues from families earning over \$50,000 per year rose by 50%. Clearly, the rich saw their portion of the income tax burden climb from 10% to 15%.

"As President Kennedy argued, these economic policies are not wedded to any particular political party or school of thought. They are common sense economics. In response to a query as to whether his tax cut proposals were conservative or progressive, President Kennedy had this to say: 'What is at stake in our economic decisions today is not some grand warfare of rival ideologies which will sweep the country with passion but the practical management of a modern economy. What we need is not labels and clichés, but more basic discussion of the sophisticated and technical questions. Political labels and ideological approaches are irrelevant to the solutions.'

"Mr. Speaker, some might say, what does Kennedy's espousal of tax cuts in the 1960s have to do with the Hawaii of the 1990s, or more specifically, House Bill 2749? Let me bring us more up to date, Mr. Speaker.

"In the 1980s we had a Republican President. Ronald Reagan vowed to cut taxes across-the-board during his Administration. In light of the policies of presidents

immediately preceding him, what he proposed was bold, but it was not unprecedented. President Kennedy had also implemented tax cuts to spur economic growth just two decades before, and with very promising results.

"Mr. Speaker, President Reagan championed two major pieces of tax legislation which together reduced the top tax rate from 70 percent in 1980 to 28 percent by 1988. He managed to pass both reductions through a Democratically-controlled U.S. House of Representatives because they were made aware of President Kennedy's precedent.

"The economic consequences of the Reagan tax cuts were significant. In 1981, America's economy was being whip-sawed between extraordinary inflation, on the one hand, and a double-dip recession (1980 and 1982), on the other hand. What most concerned policymakers was how this pattern contradicted the conventional economic wisdom of the day, which was that a recession could not co-exist with high inflation. This phenomenon was nicknamed 'stagflation'.

"As in the 1960s, America experienced a long period of economic growth following the tax cuts. Growth averaged nearly 4 percent.

"According to one public policy research institute, the tax cuts of the 1980s show what happens if tax policy reduces the burden on working, saving, and investing. Once the economy received an unambiguous tax cut, everything President Reagan said would happen if tax rates were reduced began to happen. The economy began to grow and 21 million new jobs were created.

Mr. Speaker, Congressional Budget Office data show that the lower tax rates were followed by increased tax revenues. From 1962-1969, tax revenues grew from 0.01% to 4.79% under Kennedy and Johnson, and in the period 1981-1989, tax revenues grew from 1.53% to 2.2% under President Reagan. How is it that more tax dollars were collected at lower rates? The answer is simple: tax cuts generate economic growth.

The connection between tax rates and economic activity need not be exaggerated. History provides clear and convincing evidence that tax rate reductions are followed by periods of economic prosperity. And this is corroborated by common sense. When families are permitted to keep more of their hard-earned dollars, then tax revenues actually over the long haul grow due to the increased consumption and the entrance of more individuals into the labor market.

"Mr. Speaker, this brings me, finally, back to the ERTF proposals.

"If we in Hawaii want to move our State forward and out of these economic doldrums, we must provide Hawaii's residents with the wherewithal to continue to support their families and to be consumers. We must create an attractive business environment which welcomes business investors and entrepreneurs.

"The ERTF's State income and corporate tax cut proposals are not or were not experiments. They have been tried and have been proven effective. They are not partisan proposals but common sense ones, as attested to by former presidents Kennedy and Reagan. They are not only logically sound but have built sound economies under both liberal and conservative administrations.

"Many of the recommendations of the ERTF relate to Hawaii's economy, but let us focus on just two central proposals. These two proposals were originally in this bill before us -- or were supposed to be in this bill.

"It could be, Mr. Speaker, that from the very beginning the House did not desire to lower the corporate taxes. But I was one who supported the ERTF's proposals on tax reduction.

"Mr. Speaker, the ERTF proposed to reduce the top marginal income tax rate initially from the current 10% to 7% and then after three years to 6%. All other rates would have been proportionately reduced. A nonrefundable tax credit would be available to those with low modified adjusted gross income below \$20,000.00 to safeguard the poor. This would afford families more disposable income with which to raise their keiki.

"Mr. Speaker, second, the ERTF proposed to reduce corporate income tax from 6.4% to 3.2%, which is a drop by half. This would have made Hawaii very competitive vis-à-vis other jurisdictions and would have sent a clear signal to investors and entrepreneurs throughout the Pacific Rim that Hawaii is serious about being business friendly.

"While these tax rate reductions alone would not have solved all of Hawaii's economic challenges, if history is any guide, these reductions were a reasonable and necessary step in the right direction. I hope we will revisit the issue of tax reductions next session. I hope my constituents give me the honor of representing them a second time so that I can help complete the important work which we have in this bill begin but which we must finish.

"So for the foregoing reasons, Mr. Speaker, I support this measure, House Bill 2749."

Representative Meyer then rose in support of the measure with reservations and asked that her comments be inserted into the Journal, and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker. I rise to speak with reservations on HB 2749 HD1 SD1 CD1.

"Certainly, I am in favor of individual income tax reform. Decreasing the top rate from 10% to 8.25% by 2002 and raising the top income bracket for joint returns to \$80,000, head of household returns to \$60,000, and single returns to \$40,000, will provide some taxpayer relief and, hopefully, some stimulation to our flagging economy. However, the reforms proposed in this bill are less than what we had hoped.

"My most compelling reservations to this legislation, however, come from Sections 4 and 5 dealing with the phase out of business development corporations (BDC's). Section 4 provides what appears to be 'grandfathering' language for those BDC's incorporated under Chapter 420 HRS, prior to July 1, 1998. However, Section 5 repeals the Chapter as of December 31, 2001 and only allows those 'grandfathered' BDC's to claim reduced tax credits, decreasing from 80% for the tax year beginning January 1, 1998 to 20% in the taxable year beginning January 1, 2001. No tax credits under the Chapter will be allowable after that point, because the law will simply not be there any longer.

"The language for this phase out was taken directly from SB 3007 SD1 HD2, relating to business development corporations. I was on this Conference Committee which recessed until Thursday, 04-30-98 at 1:00 p.m. never to meet again. When I attempted to find out what was happening with the bill, I was unable to do so. Without warning, the phase out language of SB 3007 appears in the bill now before us - tacked on at the end. Monday

night I was rushed into signing conference reports, just as many as you were. HB 2749 was put before me. It did provide some tax reform which I have supported all along. So, I signed without realizing that at the end of the bill was the repeal of the BDC's. As a legislator, I resent that I was pressured into signing something that I, otherwise, would never have supported simply because it was sneaked into a bill that it was not previously part of.

"We talk a lot in this body about stimulating the economy by helping small businesses. Yet, we propose the phase-out of one program that really works. BDCs have been a creature of statute since the sixties. The idea was that if a company plowed its profits back into further business development in Hawaii and the Pacific, then it would be given a full tax credit. This was designed to create more economic activity. One success story under this law is Wallace Theaters. Wallace Theatres has put new theaters in areas where no one else would and is in the process of doing so on Molokai and in Hilo. This creates jobs and brings a service to communities that would otherwise not have the jobs or the service available to them. This law is doing exactly what the Legislature intended to do. Yet, for some unknown reason, we are now being asked to eliminate the program. Once again, we seem to be 'revenue grabbing' at the expense of good sense and economic development.

"At the least, the 'grandfathering' of existing BDC's should not be phased out. Those, like Wallace Theaters, who have committed funds to further development should not be punished in the manner being proposed under this bill."

Representative Fox then rose in support of the measure and asked that his comments be inserted into the Journal, and the Chair "so ordered."

Representative Fox's remarks are as follows:

"Mr. Speaker, I support cutting personal income taxes. But the proposal before us will fail to provide the economic stimulation Hawaii's economy needs. First, the tax cut is too small. And second, the tax cut begins in January 1999, too late to help this year's economy.

"We all know the tax cut is small, Mr. Speaker, but we may not realize how small the net tax cut is. The budget is \$105 million less for the coming fiscal year than the amount we budgeted last year. But the income tax reduction is only \$79.5 million. And even that cut is partly paid for by two tax increases. Eliminating the food credit and replacing it with a low-income credit results in a tax increase of \$8.3 million in the coming fiscal year. And shifting the hotel room tax revenues from the counties to the new tourism fund short-changes the counties \$17 million in the coming fiscal year. The counties will have to raise property taxes to make up for the shortfall. So we have to count the funds short-changed the counties as a tax increase, which added to the \$8.3 million in lost food credits equals a tax increase of \$25.3 million. The net economic stimulation of the proposed tax changes, therefore, is only \$54 million, not enough to make a difference in the coming year.

"And the cut doesn't even begin until after the coming election, until 1999. Mr. Speaker, we need a tax cut now. And we need real tax cuts. Unfortunately, the proposed tax cut is minimal for certain low-income groups. Those making \$4950 a year, for example, will see a tax cut of less than \$10 a year. And a family of four making \$21,000 will see their taxes drop only \$2 a week. The tax plan before us this evening fails to raise the State's standard deduction to the Federal level, fails to raise the State's personal exemption to the Federal level, fails to provide the much-needed tax credit for exported

services, but succeeds in raising taxes for all who lose their food tax credit, and who will have to pay more property taxes because of the reduced support for the counties. We instead need true tax reform that helps ordinary people struggling with their income taxes, reform that puts money into people's hands to spend as they wish, reform that generates new economic activity to boost revenue for better government the next year.

"Mr. Speaker, the Majority Leader has told us we could have had a larger tax cut if we had supported an excise tax increase. This strange logic misses the basic point: it is the net tax cut, the reduced government spending matched by increased private spending, that sparks economic growth. To help Hawaii's economy, we need a true, meaningful tax cut. The Majority Leader refers to studies that show how states in bad times raise taxes, and lower them in good times. But the study done by the National Conference of State Legislatures (NCSL) to which the Majority Leader referred has a big flaw. It is based on projected revenue only. We followed up on the projected revenue estimates by finding out what actually happened to the projected revenue collections, something the NCSL books failed to do. We looked only at the down years of 1989-92, the bad years that cost President Bush re-election in a campaign where his challenger proclaimed: 'It's the economy, stupid!' What did we find?

"Mr. Speaker, we looked at the projected revenue in Michigan, Massachusetts, New Jersey, and New York for the 1989-92 years. It's a total of sixteen examples four years in four states. In all seven cases where the NCSL study said the budget would fall because of a tax cut, revenue in fact increased. In five cases where the NCSL study said tax increases would increase revenue, there were shortfalls. The states did not see the revenue they expected to collect. In only two of the 16 cases we looked at did taxes go up, and revenue increased enough to match the tax rise. The lesson we learn from our sister states is that if we want more revenue, we should cut taxes, and if we are happy with less revenue, we should raise taxes.

"Throughout the country today, Mr. Speaker, our sister states are grappling with the problem of revenues outpacing spending increases. According to the American Legislative Exchange Council (ALEC), states collected \$43 billion in surplus revenue in 1995-97, as a result of combined tax cuts totaling \$12 billion. ALEC said, taking in more than \$40 billion in new money while cutting taxes should disprove the myth that tax cuts automatically lead to lower revenue collections. Unfortunately, most budget offices still score tax cuts as costing the state money. ALEC pointed to a publication of the National Association of State Budget Officers that stated: 'Legislative actions will decrease revenues by \$4.1 billion for fiscal 1997.' Instead, ALEC noted, the receipts were actually \$13 billion higher than expected. The message is clear. Don't listen to budget directors. If you want more revenue, you must cut taxes. What a disappointment, Mr. Speaker, that the bill before us does so little, when our State needs so much."

Representative Herkes rose and asked for a ruling on a possible conflict, saying that he is a Hawaii taxpayer and will directly benefit financially by this bill, and the Chair ruled "no conflict."

Representative Kawanakoa then rose and asked that his comments be entered into the Journal, and the Chair "so ordered."

Representative Kawanakoa's remarks are as follows:

"I would just like to state for the record that I am a bit dismayed that we don't have the opportunity to debate these measures. These are very important measures for the people of Hawaii and the fact that we are all entering our remarks into the Journal with no discussion, I think is a breach of our duty as the voice and the representative democracy that we are elected to come to this honorable body. Mr. Speaker, I know the time is pressed. I note that for the Journal, and I wish we had the opportunity to amend the motion to simply pass the bills necessary by 12:00 midnight, and go into the extended session that we all know we will be in in another five minutes. This is, quite frankly, a disgrace to our constituents.

"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. 2749, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 166 and H.B. No. 2909, HD 2, SD 1, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. 2909 HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 167 and S.B. No. 2259, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2259, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Ahu Isa rose to speak in opposition to the measure, stating:

"This bill appears to be in violation of the Hawaii State Constitution, Article VIII, and let me quote: 'The taxing power shall be reserved to the State...except that all functions, powers, and duties relating to taxation of real property shall be exercised exclusively by the counties.' The counties have relied on this statutory classification of timeshares as real property and under taxing power.

"The Hawaii State Constitution also says that according to HRS 514E-2: 'The temporal division of any interest in real property shall not, in and of itself, affect the status of real property...a timeshare interest shall constitute "real estate" and the other offer or sale thereof shall constitute the offer of sale of an interest in real property.' If the counties' real property taxes on timeshare are constitutional, Mr. Speaker, then the proposed State tax under SB 2259 would appear to be unconstitutional.

"In addition to the State Constitutional problem, the TAT on timeshare appears to violate the United States Constitution. The tax affectively discriminates between classes of taxpayers based on their residency and therefore raises concerns under the Commerce Clause, the Privileges and Immunities Clause, and the Equal Protection Clause.

"The Commerce Clause states that 'if a State law is discriminatory, either in purpose or effect, it will almost always be held in violation of the Commerce Clause.' The Senate Bill notes that: 'The discrimination of this activity does not discriminate because timeshare occupants are taxed regardless of whether the occupants

are residents or nonresidents.' However, the inquiry under the Commerce Clause does not end with an examination of whether the taxes are apply to both residents and nonresidents. Rather, the effect of the legislation must also be examined.

"According to a study done by the American Resort Development Association, only two percent of owners of timeshare interest are residents of Hawaii. That means the remaining 98 percent are nonresidents. Accordingly, a tax imposed on timeshare units would fall mainly on nonresidents 98 percent of the time. Even more strongly condemnatory, Mr. Speaker, is the bill's legislative findings, which revealed that the proposed tax is specifically intended to target nonresidents. Let me quote on page 30, line 17 of the bill: 'The legislature finds that resort timeshare vacation owners are similarly situated to condominium apartment owners.' Line 23: 'When occupying their units, resort timeshare vacation' purchases 'are neither residents nor domiciliaries... Unlike resort timeshare vacation owners, the overwhelming majority of condominium apartment owners are residents of the State of the Hawaii, occupying condominium apartments as their primary residence or domicile.'

"This evidence is a discriminatory intent, which even by removing such language from the bill would not be sufficient to conceal the discriminatory intent of the legislation, nor to overcome its constitutional deficiency. Should this legislation become law, the State would find it very difficult to disavow any discriminatory intent in view of the history of this legislation.

"The Senate Ways and Means Committee rationalizes that this tax, by analogizing it to the transient accommodations tax, also known as the 'hotel tax', they pose an argument. They say that this is because the timeshare is buying a stream of vacation services which would be taxed under the 'hotel tax', if the timeshare purchaser were to stay in a hotel rather than in the purchased timeshare unit.

"Professor Jessie Chopar, a very warm professor of law from UC Berkeley School of law, states in his letter to me dated April 27, 1998: 'I believe that the Committee's analysis is flawed. A timeshare owner is to a hotel guest as a homeowner is to a renter.'"

Representative Ito then yielded his time to Representative Ahu Isa.

Representative Ahu Isa continued, stating:

"In both cases, the value of the owner's real property interest is defined as the present worth of future benefits that accrue to real property ownership.' The 'Dictionary of Real Estate Appraisal' defines value as such: 'the value of the homeowners real property interest is the present value of the future stream of benefits.' What's the benefit? It is the use and occupancy of the home. That's the special benefit when he buys. This is what he expects to get from his house.

"The value of the timeshare owner's real property interest is the present value of the future stream of benefits. What's the benefit? The use and occupancy of the unit during his or her future vacations. Both the timeshare owner and the homeowner are not taxed on the intuitive full market rental value of the residence, in addition to the property tax he pays on his fair market value. By contrast, neither the hotel guests nor the residential renter pays real property taxes directly. The hotel operator must pay their own tax to the State and passes that tax on to the guest. The landlord pays a

general excise tax on the rent and passes that tax on to the renter.

"In both cases, the tax is levied on the money that actually hands, not on an intuitive full market rental value. Hence, as of now the timeshare owner is taxed like any other real property owner, while hotel guests and the renter both pay taxes under different tax regimes. Everyone pays his or her fair share. It's true, the counties charge the timeshare owner at a higher rate than the homeowner. Thus even if it were true that timeshare owners 'burden the State' on county facilities in a manner similar to the transient individuals occupying hotels, the timeshare owners are already paying a higher tax to the counties to cover their fair share.

"Also because of the shortfall of the \$24 million that the counties will face because of this bill, 'the counties will have no alternative to keep the levy off people or raise property taxes', and I'm taking a quote directly out of the 'Star-Bulletin' from Mayor Jeremy Harris. 'This will add even more taxes to the timeshare owner. Professor Chopar further states that: 'the transient accommodations tax proposed by this bill will destroy the balance by imposing a new tax on the timeshare owner alone, above and beyond the property tax that he and the homeowners are already paying. The result will be an extra tax that would fall and would be intended to fall primarily on nonresidents while virtually only a minute amount of residents will pay a similar tax.'

"This further illustrates the discriminatory nature of such a tax. As far as taxing our hotel guests an additional 1.5 percent to a total of 11.25 percent and spending \$58 million for marketing, and let me quote Mr. Kona from the Japan report: 'sure Hawaii can spend \$6 million on advertising, but because Hawaii doesn't have anything novel to offer, I bet that the Governor and the Mayors will have a difficult task. Hawaii is already a well known tourist destination in Japan so these efforts seem futile. Those times are gone when Hawaii was able to capitalize on its natural beauty and culture. We must promote on a large scale something new, something that tourists are seeking.'

"And from the May 2 **Advertiser**, I want to quote Dr. Richard Kelly: 'Clearly, Chairman of Honolulu based Outrigger Enterprises, which owns and operates 28 hotels and condominiums, embraced an increase as a member of the Governor's Economic Revitalization Task Force, as long as the money was spent wisely by a small group of professionals. At the same time,' he says, 'I've raised my voice from this time to reach a price when you have excess demand and you've got people standing in line outside your door trying to get in. But when we got fewer and fewer people coming and hotel rooms standing vacant and empty, hula sales not filled, luaus empty, maybe we need to use some caution here.' Kelly worries that in hiring the wrong task force ultimately could leave Hawaii with a saw.

"The \$58 million raise to promotion could get lost in the bureaucracy set up to spend it or tourists stay away in even greater numbers."

Representative Okamura then yielded his time to Representative Ahu Isa.

The Chair responded: "I believe that it has been yielded twice already and there's no more time to yield. Representative, will you please wrap it up. Representative Ito yielded one time and it's the second time it will be on this rebuttal."

Representative Goodenow then yielded his time to Representative Ahu Isa.

Representative Ahu Isa responded: "I'll just wrap it up, Mr. Speaker."

The Chair responded: "Yes, please wrap it up."

Representative Ahu Isa continued, stating:

"William and Ariat Agard from Minnesota already know what to anticipate in Hawaii. Both are retired. They have been staying at the Ilima Hotel in Waikiki from February to March for the past 20 years. 'I do more marketing for Hawaii than they ever could,' he says. 'I tell everybody how much we love it here.' Since they got back to Minnesota in March, Agard also has been telling folks that Hawaii only wants to raise the hotel room tax. 'Well, that money might only be a little bit, but not if it's going to be \$3 or \$4 a day,' he said. 'There are 35 days that we stay there and you're looking at big money. We are pensioners, we take the bus.' After retiring as a deputy sheriff, Agard runs two little grocery stores. 'When business is slow,' he said, 'I cut prices, not like what they're doing in Hawaii,' he said. 'They're scaring us away.'

"Mr. Speaker, we say that we are not passing any gambling bills this session, and yet we are gambling with our timeshare tourism dollars. As we take the risk of gambling, and yield \$3.4 million from timeshare which brings in \$500 million, and hope and pray that what we do to these timeshare owners will not hurt our State, will not hurt mainly the islands of Hawaii and Kauai, or not result in huge losses to their economies. Mahalo, Mr. Speaker, for letting me express my concerns about timeshare."

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

"I oppose this because it imposes the TAT on resort timeshare vacation units. Many of these units are owned by local residents, and this tax subjects them to unfair double taxation since they already pay property tax. Of course, that's a county tax, and as this bill shows, we don't really care much what happens to the counties."

"This bill also raises very little revenue while decimating yet another industry. This week's Miss Universe contest cost the State as much as would be raised by taxing timeshare units. At the start of this session, we talked about stimulating our economy with tax relief for Hawaii residents. Yet, with this measure we are imposing a new tax on a new population, and incredible enough, it is a tax on an already existing tax."

"There is no need to include the timeshare properties in this bill. In fact, I wonder if technically we can have this provision in the bill considering that when the TAT came up before the Finance Committee, it didn't pass the Finance Committee. It was voted down. So perhaps that's something the Attorney General should look at. At any rate, I must vote 'no' on this bill. Thank you."

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

"I think we covered the timeshare issue, and I agree with the Representative from Kalihi on that. We shouldn't put new fees and new taxes on clearly what is the workforce of our economy -- tourism. At this late hour, I almost feel like a vampire. We're sucking blood out of that workforce which runs our economy. We're effectively reducing funding to the counties."

"This morning I read in the paper that because of this action, the counties are thinking of raising property taxes,

which is another issue. But it's a tax, and I'm going to vote against it. Thank you."

Representative Kahikina then rose to speak in support of the measure with "grave reservations", stating:

"I just hope that all that the beautiful Representative from Kalihi said, as she prophesized that this might adversely affect the timeshare businesses here in Hawaii, that it doesn't affect it as deep as she made mention. I just wanted to express that as my reservation, but also that this measure does have a good component on designated tourist advertisement. For those matters, I stand in support with grave reservations. Thank you."

Representative Fox then rose to speak in opposition to the measure, stating:

"The tax on timeshares is only one component of what is definitely a tax increase bill. We also have a 1.25 percent increase in the tax on transient accommodations and some reference to this was made by the Representative from the Nuuanu, Palama, Liliha area."

"Basically, let's talk a little bit about what this bill is. The revenue that we get for the transient accommodations tax is \$120 million. That's \$20 million for every percent, 6 percent tax, \$120 million. We're going to go up another 1.25 percent. That's an increase of \$25 million. Currently, the tourist industry gets \$30 million in general funds appropriations for its promotion; 1.25 percent is \$25 million, so that's a fund that's \$55 million. So the tourist industry pays for exactly what they get from this bill. The tax goes up 1.25 percent, or \$25 million, and that's the increase in the tourism fund."

"The bill raises the tourism promotion fund to \$55 million. So there's no net gain for the tourist industry, but there is an important loss that was referred to in the comments by Mr. Kelly of the Outrigger, as quoted. And that is that people will be discouraged to come to Hawaii by the increase of cost of a vacation in Hawaii, and that's something we really have to be concerned about. You raise taxes, you discourage people from coming. And we're going to have the highest average room rates in the country with these taxes added on, but at least second highest only to New York."

"More important and more significant, we have a tremendous tax increase that's going to be imposed on all of the people of Hawaii who pay property taxes and that is because the counties are going to get \$35 million less under this bill than they currently get from the transient accommodations tax. Basically, the counties are going to put in the \$30 million that's going to finance the rest of the tourism fund and they're going to chip in another 5 percent to the Convention Center. That's \$35 million paying for the tourism fund and paying for the Convention Center that's allotted under this bill coming from the counties -- \$35 million from the counties."

"The figures in the newspaper are wrong. It's \$35 million. That's what's going to be taken from the counties. And the counties are going to have to pay for that some way. We've already got a really clear indication on how they're going to pay for it. They're going to impose it on the same people that vote for us in office. Our constituents are going to have to pay those taxes and, ladies and gentlemen and Mr. Speaker, we've got a serious tax increase bill here. It increases the taxes on the people of Hawaii in the form of higher property taxes. It increases the taxes on the hotels in the form of an increase in the transient accommodations tax. And it creates a new tax, a second new tax on transient occupancy taxed units. If we oppose tax increases, we should vote this bill down."

"Thank you, Mr. Speaker."

Representative Kawanakoa then rose to speak "regretfully" in opposition to the measure, stating:

"You know, there is much to agree with and I'm a bit torn, but the fact remains that this bill raises the TAT even higher than the ERTF recommended at 7 percent. It applies the room tax on timeshare units, something that wasn't envisioned by the ERTF at 7.25 percent. The most troubling aspect of this measure, Mr. Speaker, is what it does to our counties as was mentioned by the previous speaker.

"In your Opening Day remarks, Mr. Speaker, I point out again that you spoke of shifting our tax burden outside the State. This bill does some shifting alright, but it does it to the counties rather than out of State. I don't call it shifting the burden, I call it passing the buck, Mr. Speaker. What will our counties do? What will they do? They'll have to raise the property taxes, it's clear. We've left them fewer options. The little good that we've accomplished by cutting personal income taxes must be offset by the approximately \$30 million, as has just been mentioned, \$35 million that we will expect to see as property tax increases throughout our counties because they'll be forced to enact such an increase.

"As was mentioned by the City and County of Honolulu, I believe that they are still operating at their 1991 budget. They are holding the line, Mr. Speaker. It's not responsible for us to throw them more burdens at this time. For those reasons, Mr. Speaker, I'll be voting 'no' on this measure. Thank you."

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

"For those who would like to comment, sir, that we have done little for our economy, this is the bill that does a lot for our economy. This bill represents a policy decision that has been made to allow for a dedicated source of funding for tourism marketing and for payment of our Convention Center's debt service. It has often been overlooked in this discussion.

"Mr. Speaker, it is an economic stimulus bill designed to bring money to Hawaii by marketing an investment in our 'golden egg' -- our tourism industry. Mr. Speaker, one may disagree with this decision, but I believe that it is the right one. It is a sound and right decision. It has long been argued that the TAT should've had a better nexus to tourism. This bill moves us in that direction.

"Opponents will say that this bill does not fully fund the county governments at the \$90 million level, but in looking at this bill, let us also look at the adjustments that we have made in the past that assist the counties. Let's not forget these. We have made adjustments to the ERS, Employees' Retirement System contributions, which have allowed them to drop the employer contributions due to revised salary assumptions. There's another bill that we will be coming up on, Mr. Speaker, that does the same.

"The counties have also been allowed extended types of short-term investments that they can make. This is something that we have done, allowing our counties to make maximum use of our tax dollars held by the counties. And again, Mr. Speaker, this year the counties will also be returned part of their contributions made to the public employees' health fund, and that decision we'll be passing later on.

"As our Chair of the Finance Committee has said, Mr. Speaker, we must all share the burden. This means that

the counties will have to learn to accept less, much as we on the State level have been doing for several years. Mr. Speaker, I also note that the counties have the ability to raise money and have a very stable tax base that they may tap into in the form of property taxes. The counties are trying to adjust their tax structure just as we have at the Legislature throughout this entire session. In fact, over several years past.

"Mr. Speaker, when the real property estate marketers bloomed, the counties also prospered from increased property taxes caused by inflated property values. In fact, one county, Mr. Speaker, even froze property taxes at a higher level in efforts to deal with their shortfall while the market subsided. Mr. Speaker, there is more equity in this bill because we also subject timeshares to a tax. As was pointed out, we are perhaps the only state to tax timeshares, but in a system of uniqueness of Hawaii's economy that is reliant upon tourism, it is appropriate.

"Timeshares also represent a portion of the visitor market that should put their fair share into the marketing of Hawaii as a destination. Mr. Speaker and members, read the bill. It is noted that the timeshare vacationer purchases 1.6 weeks in Hawaii. Timeshare owners are vacationers as well. A previous speaker mentioned that most of the timeshare owners are from out of State. Mr. Speaker, as the Representative from South Maui can tell you, timeshares also benefit from HVB marketing, and other promotional activities sponsored by independent businesses as well.

"Finally, Mr. Speaker, timeshare occupants also utilize services that our county and State provide and our residents pay for. Again, Mr. Speaker, this is a policy call on our part and I believe it is a right one, just and reasonable. I urge my members to support this measure. Thank you."

Representative Pendleton then rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'd first like to incorporate the remarks of the Republican Leader as though they were my own," and the Chair "so ordered." (By reference only)

"I'd then like to just note that this bill does raise the TAT rate. That's one of the reasons why I am opposed. The other reason is the extension of the room tax to timeshares.

"There are two documents which are in part to my thinking on this. One is from the Tax Foundation of Hawaii, and I'd like to share just a few sentences from that document. It says: 'What the measure fails to recognize is that timeshare units provide an important economic activity for Hawaii because these units are purchased for use either for a specific number of years or in perpetuity as owner of these units in a commitment to return to those units each year. In other words, it is a guaranteed return visitor. Further, because these timeshare units usually are sold for minimum of one-week periods, the stay of this return visitor is longer than the average stay of the occasional visitor who might stay in a hotel. To the extent that the timeshare owners will stay for a week year after year, buying groceries in the community as well as patronizing restaurants and other local businesses, it should also be remembered that the maintenance fees paid by timeshare owners are subject to the general excise tax. To allow you to draw a mix of both hotels as well as timeshares helps to stabilize and support businesses of the visitor industry who are contributing to the tax base.'

"Mr. Speaker, clearly our State benefits from having a vibrant and thriving timeshare business or operation in

our State. We don't want to do things which will harm this sector of our economy. In fact, in speaking with representatives from some of the Neighbor Islands, as well as mayors from our neighboring counties, one county for example, Kauai, benefited tremendously in its ability to recover from the most recent natural disaster because of the very strong timeshare industry. Without that, I'm told that the recovery would have been much slower.

"Mr. Speaker, the other document which influenced my thinking on this issue and the reason why I stand opposed to this measure that is extending the room tax to timeshares is our Hawaii State Constitution. Wherein, Article 8, Section 3, we read that the 'taxing power shall be reserved to the State, except that all functions, powers, and duties relating to the taxation of real property shall be exercised exclusively by the counties.' -- 'shall be exercised exclusively by the counties.' In talking with law professors and various people, timeshares have in this their share of real ownership. That is ownership of real property. They're much more like owning homes rather than just staying in hotels. We will be, I think, risking future litigation. Litigation which may, in fact, be costly if we proceed down this road. So for those reasons, Mr. Speaker, I oppose this measure. Thank you."

Representative Tarnas then rose to speak in opposition to the measure, stating:

"There are three problems I have with this bill. One of them is the questionable constitutionality of the provisions related to the transient occupancy tax on timeshares. Mr. Speaker, I do agree that the timeshare industry should more fully support statewide tourism marketing, but I don't believe that this tax is the way to go about that.

"Secondly, Mr. Speaker, I believe that there has been something missing in this whole process of funding the counties through the TAT and the change that is contemplated by this measure. I believe there is a lack of a collaborative process of working with the counties on identifying financing alternatives when their share of the transient accommodations tax is cut as it is in this bill. I think we've known for years that it was coming where the TAT percentage would be cut to the counties. I believe it would have been more prudent and more responsible of the State to work with those creatures of the State, the counties that we have created, and working with them to determine how best we can meet their needs once the TAT is cut.

"The third reason why I have problems with this bill is that there's an increase in the TAT over and above the amount that was, albeit reluctantly, agreed upon by the Hawaii Hotel Association. I believe that will be a disincentive for people to come to this State and that is a problem.

"Mr. Speaker, there are other very important parts to this bill that I do support such as a dedicated funding to tourism, establishing the Hawaii Tourism Authority, and extending the sunset date for the Convention Center Authority. But unfortunately, because of the problems with this bill that I have articulated, I must vote no.

"Thank you, Mr. Speaker."

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

"This particular measure, first of all, establishes a Hawaii Tourism Authority. Yes, it does increase the TAT from 6 percent to 7.25 percent in order to provide a dedicated funding source for our tourism promotion. It also applies a 7.25 TAT to 50 percent of the maintenance fees of timeshares.

"The detractors of this measure have already come out of the woodworks this evening. By far, the biggest chip has been that property taxes will be increased by the counties. They're going to do it -- no matter what if this measure doesn't pass. The City and County of Honolulu is \$17 million in the hole. I would like to say, Mr. Speaker, that let's put this argument to rest right here and now.

"For all of us here, Mr. Speaker, fact number one, the new TAT formula takes effect on January 1, 1999. This means that the counties will receive \$83.26 million in fiscal year 1999, a shortfall of about \$15 million. Fact number two, due to the provisions of another measure, House Bill 1533, CD 1, the counties will receive, Mr. Speaker, \$12 million in reimbursement from the public employees' health fund. Fact number three, due to the provisions of House Bill 2803, CD 1, that changes the salary increase assumption of the ERS. The counties will receive approximately \$3.5 million. Thus, the total additional savings for the counties that is not realized on this floor at this particular time is \$15.5 million, eliminating the shortfall for fiscal year 1999.

"Mr. Speaker, the final message is this: The counties cannot blame the State if they increase property taxes. Fact number four, the tourism special fund will start with approximately \$40 million in fiscal year 1999, and that's not bad for six months, and will quickly grow to \$58 million in fiscal year 2000, \$59 million in fiscal year 2001, and over \$60 million in fiscal year 2002.

"A major concern for all of us that I think we should recognize is this, or fact number five. Our debt service for the Convention Center is covered for fiscal year 1999 and the State is able to pay a portion of the cost of the tax reform plan through the savings in the budget for tourism of approximately \$12.5 million.

"Fact number six, a point that is always overlooked when debating State actions that affect the counties is the following: due to past changes to the ERS laws made by the State, the counties will save over \$64 million in fiscal year 1999 and over \$67 million in fiscal year 2000. Once again I say to all of you, the counties cannot blame the State if they increase property taxes.

"Fact number seven, the State will realize savings of about \$23 million in fiscal year 2000 from reduced funding of our tourism marketing. However, there will still be a debt service shortfall under the TAT distribution of this measure. This shortfall will have to be met by the State in our general fund appropriation. Even with the additional \$26 million from tourism promotion, debt service will be short \$6 million in fiscal year 2000, growing to \$20 million in fiscal year 2003. And so, Mr. Speaker, fact number eight, there ain't no such thing as a free lunch. Everybody will be sharing the pain of these transitions.

"Moving on to the TAT, Mr. Speaker, in developing a conference draft in regards to the TAT, I believe the House had a reasonable posture in not accepting it in our House draft. But in conference, Mr. Speaker, in the act of compromise and resolution to a problem that the Senate wanted to consider, the TAT was considered on the table on behalf of your conferees.

"The assumptions that I would like to give this evening is this. Just an average of a weekly maintenance fee of \$455 and the assumption that there may be 3,200 timeshare units, and they're on another assumption where 358 timeshare units are available per year, it would come out to this. That for \$455 at seven days per week, it comes out to \$65 per day; multiplier affect of \$65 times .5

equals \$37.50 per day; \$37.50 times 7.25, which is the TAT, equates to, Mr. Speaker, \$2.71 charge per timeshare unit per day. I don't know if that's a lot in using these resources to market the State of Hawaii also.

"I, for one as a conferee, agreed with the Senate conferees and this is why we have this measure here this evening. I ask all of my fellow colleagues for their support in addressing this particular measure because it is a bold step forward.

"Thank you very much."

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

"First, I'd like to incorporate the remarks of the Representative from Kohala as my own," and the Chair "so ordered." (By reference only)

"Earlier today, I circulated a memo to my colleagues and I would like permission to submit into the Journal a portion of the Tax Foundation of Hawaii Digest which is germane to this measure," and the Chair "so ordered."

"Proponents of tax on timeshare constantly state that unlike hotel visitors, transient resort timeshare vacation users do not contribute their fair share of taxes. On page 30 of the bill, beginning on line 5, this paragraph describes the burden these types of travelers place on our roads. May I remind my colleagues that timeshare owners are not exempt from fuel taxes. Further, the paragraph describes the burden placed on police and fire protective service by timeshare owners. Again, may I remind this body that these owners pay property taxes assessed by each county.

"I would also like to point out that if timeshare units are rented to nonowners, the rent is subject to both the TAT and the GET. I believe the underlying problem, the reason why timeshare tax keeps popping up year after year, is the timeshare industry is perceived not to be paying its fair share in visitor promotion. I don't believe we need a tax or legislation to deal with that problem within the industry.

"In order to effectuate the timeshare tax, this body will need to amend chapter 514E-2, HRS, or amend the Constitution to remove the counties' taxing power on real estate. Otherwise this measure would appear to beg litigation. I hope you'll all agree with me that the passage of the timeshare tax will subject the State to litigation and do such damage that it will not be worth the small amount of revenue that it would be collecting. Thank you."

Representative Morita's additional remarks, as referenced above, are as follows:

"While the measure states that unlike hotel visitors, transient resort timeshare vacation users do not contribute their fair share of taxes, it should be remembered that these properties are purchased and owned where title to the property actually changes hands, albeit for a temporal period within each year.

"What the measure fails to recognize is that timeshare units provide an important economic activity for Hawaii. Because these units are purchased for use either for a specific number of years - like twenty years - or in perpetuity, the ownership of these units is a commitment to return to those units each year. In other words, it is a guaranteed return visitor. Further, because these timeshare units usually are sold for a minimum of one-week periods, the stay of this return visitor is longer than

the average stay of the occasional visitor who might stay in a hotel.

"To the extent that the timeshare owners will stay for a week year after year, buying groceries in the community as well as patronizing restaurants and other local businesses, it should also be remembered that the maintenance fees paid by timeshare owners are subject to the general excise tax. To a large degree, a mix of both hotels as well as timeshares helps to stabilize the support businesses of the visitor industry while contributing to the tax base. If Hawaii had only hotel accommodations upon which to rely, the recent recession in the visitor industry might have been even more severe. Thus, to argue that occupants of timeshare units do not pay their fair share of taxes is fallacious.

"Whether or not this new tax would discourage ownership of timeshare units in Hawaii is subject to debate. If it does discourage prospective ownership, Hawaii's visitor industry will lose one of its stabilizing factors. At a time when the visitor industry is already suffering, in particular all of the support industries, it hardly makes sense to impose yet another burden on that industry.

"Although some argue that these units are in direct competition with hotel accommodations and therefore they should pay a TAT, in reality they are not unless they are being rented to non-owners at which point the rent is subject to both the TAT and the general excise tax. Once the prospective timeshare buyer has made a decision on purchasing, the business for his stay is no longer in competition with a hotel. When viewed from the standpoint that if there were no timeshares, the prospective visitor certainly would have to make a choice of lodging in Hawaii, that choice only occurs after a choice has been made to visit Hawaii. Timeshares assure that choice to visit Hawaii for the next twenty years or however long the timeshare commitment is.

"It should be remembered that these properties are owned, that is someone has invested money in Hawaii. Currently, there are few, if any, major investors willing to invest in the construction of a major hotel property, the timeshare approach allows many small investors to collectively replace those large investors of the 1980's. What timeshares do represent is a long-term commitment of returning to Hawaii, an aspect of the visitor industry that Hawaii sorely needs to survive.

"In addition to the effort to bring timeshare owners under the TAT, it appears that this proposal is being included in the ERTF package because it becomes yet another source of funds. Especially the counties should note that the proceeds of this tax on timeshares goes exclusively to the tourism special fund. Thus, the counties will not benefit from the imposition of the TAT on timeshare units.

"Finally; it should be remembered that this issue has surfaced a number of times in recent years. In the discussion of the issue, the problem of imposing a recurring tax on owners of timeshare garnered the focus of the prospect that if passed, the tax may be subject to litigation. Crafters of earlier proposals took care to utilize the term 'occupants' as opposed to 'owners' to avoid the perception that this tax is imposed on the ownership of such units. This measure ignores that discussion and therefore would appear to beg litigation."

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

"I think two things bear repeating and they are two things that I think we're flirting with, the two ideas that

we are flirting with here. The first is that the TAT increase has nothing to do with the volume and the content of our tourism industry. We assume that as we increase beyond what the industry themselves has suggested, that holding the increase to one percent and crossing that line by .25 is not going to have an impact.

"We also lament the fact that the Japanese visitors have been lessening in numbers. If one looks at the publications, specifically about Japanese demographics and Japanese travel, there are more Japanese going overseas every year but Hawaii's getting less. The point being, Mr. Speaker, we're in trouble as a destination. People are flying over us, they're forgetting us, they're going to other destinations in Australia, Acapulco. And here we got an industry now that we're going to tax even further to possibly push people away or at least give them a disincentive. That's probably not very good business.

"The second idea that we are flirting with is that the Chairman and every member of the Finance Committee saw every mayor of every county stood before us and say, if you increase this TAT tax, to the extent that you take away what we have, we will be forced to, I repeat, forced to, increase the property taxes. I think it's good that the Chairman of Finance is saying that is not going to be the case, but saying it doesn't make it so, and I think the credibility of the mayors has to be measured against the credibility of what we on this floor say. We're the ones who are responsible directly to the island communities.

"Lastly, Mr. Speaker, if this TAT was so great, if it was so strong, if it was so necessary, why have we packaged these three into one bill? Why cannot the transient accommodations tax stand on its own? If it's so strong, why do we have to protect with the great marketing allocation budget? Why do we have to protect it with three measures in one? That tells you something about this particular bill, Mr. Speaker. There are some strengths and weaknesses which together make it something that doesn't necessarily pass the smoke test. Thank you."

Representative Moses then rose to speak in opposition to the measure, stating:

"To address something brought up earlier by the Majority Floor Leader and partially already responded to by a colleague, let's say that many of the timeshare participants are visitors. So, as we heard they benefit from services provided and they do that, but somebody is still paying property tax. There is still somebody that owns it and they're paying the property tax. That is the services provided. So whoever is using the timeshare isn't getting off scot-free. That's all factored into the cost that they have.

"Now that is just addressing the TAT. We're raising it, so it is a tax increase, and yet we're taking a lot of money away from the counties, and we can talk all night about the fact that, well the counties whatever they do, it's their business so it has nothing to do with what we do, but that's just not true. You can't look into the mirror and say that that's true. If we take away \$35 million or \$30 million, if you want to argue over the dollar figure, where are they going to get the money back?

"Remember they do provide services to the hotels. They provide the fire, the water, the sewer, the police, they build the roads, where does the money come from? It has to come from somewhere. So we can stop the trash pickup too and let the garbage pile up on the streets or we can pay our bills. And those bills have to be paid, and we have to pay our bills because we are the taxpayers. So if we don't pay it to the State, we're going

to pay it to the county. It comes from somewhere, and it goes somewhere, and it's used for the services.

"So after all of that, what have we done? We've balanced our budget on somebody else's back, and that somebody else is going to come right back to us again because we're the same people. Thank you, Mr. Speaker."

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

"There have been so many comments on so many different facets of this bill that I have to try to limit my response to all of them. Let me start by saying that this is a measure that, I believe, is the biggest piece of our economic revitalization package this session, because it will have a far more dramatic impact and a far quicker impact than any of the tax measures, and any of the regulatory changes that we are putting through this session. Some of the regulatory changes are going to have magnificent impacts, but those impacts will be felt over a much longer period of time. As one of the individuals representing companies that have paid this tax, if I can stand up and support it, then maybe some of you should feel that it's not such a bad idea. Because I feel and most of the people in the visitor industry feel that we're not terribly happy that we got an extra quarter of a percent. But still in balance, the importance of having a funding mechanism that is dedicated and dedicated at a level that provides us a globally competitive level of funding is far more a positive than the tax is a negative.

"I'm sorry if you don't appreciate the fact that we're raising taxes. I don't appreciate it either. Representative McDermott made the comment that we're bleeding this industry dry -- I have to agree with that. We've been bled and bled and bled. And if you look at this tax measure as hurting the counties, please stop and understand what's going on here. We are funding this partially from the hotels and partially from the counties, but don't think that the counties are getting such a bad rap. What has happened over the last decade is that every county has reduced their residential property tax rates by a minimum of 26 percent and up to 48 percent. Each county has enjoyed substantial growth in the funding they receive from the State. It has actually grown at more than triple the amount that they had before and this has grown at three times the rate of the State's own revenue growth, so they're not doing too badly.

"Let me take you and look at it in a little bit different perspective as well. The counties' taxes and the State taxes, the GET and TAT, were \$88 million in 1987. Our taxes in 1997 have grown to \$296 million. Out of that \$208 million growth, 72 percent of that money has gone to the counties. It's come out of our pockets and gone to the counties. It's come out of our visitors and gone to the counties to the tune of 72 percent. Twenty-eight percent has gone to the State. This measure levels that a little bit. The counties will still be getting a substantial amount of funding from us.

"Let me just share a few other little notes with you. Right now, all business categories on the Island of Oahu pay \$140 million in property tax into the City and County of Honolulu. The hotels alone, a little tiny piece of land, pay \$90.3 million. That means that the hotels occupying a teensy piece of property here are paying 60 percent of the amount that all other businesses occupying all other properties are paying into the county.

"Let me take you on a little trip to Maui. On Maui, the hotels pay three times more property tax and TAT than all businesses provide in property tax. So believe me, we're being taxed. We're being taxed very

successfully. Do I want another tax? No, but I accept the fact that we are not going to get dedicated funding any other way.

"With respect to a couple of comments that were made about the unfairness of taxing the timeshares, one of the reasons that I got started on this was because I felt that it was unfair for things that look and operate very similarly to hotels not to be taxed as hotels. The way timeshares are sold now, they're sold in floating units and floating time schedules. So if you buy a timeshare, your deed will say Room 304. But when you check in or when you call up your reservation, you don't get Room 304. They can put you anywhere they want. You don't get a specific week. They can put you in any week slot they want. So I don't know about you guys, but that's how my hotel works.

"In addition to that, one of the things that got me started was I spoke to one of the early timeshare developers here in Hawaii. And I asked him: 'Why did you guys move from a right to use to a deeded interest?' He said: 'Well, two reasons. We thought we could get a higher price if we give them a piece of the rock, and we felt that we could get a higher price if we could avoid taxes.' I'm sorry, I don't need any more incentive to work on this than that. This is fair. Actually, I think the tax is a little bit too low. I would have loved to have seen a little bit higher tax. Because at the rate we're charging, although there's a lot of belly-aching about it, if you have an \$800 a year maintenance fee, that means you pay somewhere in the neighborhood of \$25,000 for your unit, your tax for one week in Hawaii is \$29. That's half of what the tax is. That's actually less than half of what the tax is that a hotel visitor pays on average. The range goes down. The lowest maintenance fee, I believe, is in the neighborhood of \$200 a week. That means that that visitor is going to pay \$7 compared to the \$64 that a hotel visitor, on average, pays. So what this means is that the timeshare people are now being asked in this bill to provide a tax equal to one quarter of what the average hotel tax is."

Representative Yamane then yielded his time to Representative White.

Representative White continued, stating:

"So in balance, I think that this is a measure that bears all of our support. It's a major step in revitalizing our economy. I think that it's a measure that we should all be happy with. I'm certainly pleased with it. I get to step up to the plate to the tune of \$190,000 more next year in TAT. So if guys think you have some things to complain about, you don't. This is for a good cause. We have for many years carried a far larger share of the burden than any other business in the State. We will continue to do so, and we won't whine about it.

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

Representative Herkes then rose in support of the measure, stating:

"I must confess that I am confused by some of the comments that I've heard tonight. I listened to the Chairman of the Finance Committee say that the net difference to the counties is relatively minimal. And then I heard a member of the Minority say that just because the Finance Chairman says that, that doesn't necessarily make it so. And then I heard from the Minority that the mayors of the counties have said that if we do this, that they're going to have to raise property taxes. Perhaps you should also say that saying that does not necessarily make it so. I don't know of any mayor in this State that

has the authority to raise property taxes. They don't have the authority to raise property taxes. The County Councils are the ones that raise the property taxes, not the mayors.

"Then I heard that: How are the counties going to provide the services to the hotels like police, fire and roads? Believe me, I want to tell you hotels pay a lot in property taxes, and that's where you get the money to pay for the police and the fire and the roads. And besides the property taxes, if you are going to develop a hotel, I want to tell you, you pay some whopping impact fees uncontrolled by statute. And those go towards building police stations, they go towards building roads, they go towards all of those services that the counties provide to the hotels.

"And then finally we've been hearing from the Minority all session about the need for us to reduce the size and cost of State government. Yet, when it comes to county government, they say they're going to have to raise the property taxes to cut the shortfall, but there is no mention made of lowering the cost of county government. No suggestion made that perhaps they look at that. I support the bill."

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

"First, let me request that the remarks of the Finance Chair, as well as the Representative from West Maui, be inserted in the Journal as if they were my own," and the Chair "so ordered." (By reference only)

"Let me add a few remarks, Mr. Speaker, if I may. Mr. Speaker, this bill will raise the TAT from 6 percent to 7.25 percent, which is .25 percent more than the hotel industry really wanted. In spite of that, Mr. Speaker, this measure is still supported by the visitor industry which is willing to accept the tax increase in order to see this State establish a dedicated funding. If they are willing to support this bill, I think the visitor industry knows more than we do. We, legislators, should not be micromanaging the visitor industry. They are saying that with this increase they will still be supportive of this bill because this is the only way that they can get dedicated funding.

"Also, Mr. Speaker, with the dedicated funding to the visitor industry and the HVCB, or the Hawaii Visitors Convention Bureau, we will have stronger resources to prevent further declines in visitor arrivals. In addition, let me say this, Mr. Speaker, now that we have increased the promotion money to the visitor industry, I hope that they will still maintain their own marketing efforts. Second, that the State promotion campaign should not be a substitute for private sector marketing. Third, our promotion should be generic and should cover all islands.

"On the issue of applying the TAT to timeshares, Mr. Speaker, I would like to note that the proposed HD 1 did not contain provisions for a timeshare tax. But the Senate was not willing to consider movement on this bill without that provision. In the spirit of compromise, the House accepted a modest timeshare tax even lower than the level that some in the timeshare industry had suggested. Let me repeat that, Mr. Speaker, even lower than the level that some in the timeshare industry had suggested.

"Although the timeshare industry presented an opinion on the unconstitutionality of the proposal, which the House in Conference Committee presented to the Senate. The Senate came out with a counter opinion, which is the opinion the State Attorney General that the language of the Senate proposal is constitutional. That being the

case, the courts should be the one to determine whether or not the House position or the Senate position is correct.

"Mr. Speaker, there's no other thing for us to do except to agree to the bill and let the court decide when it comes to the constitutionality of the timeshare issue. Mr. Speaker, I believe that the amount of time that we have dedicated on this bill clearly shows that there is much interest in the legislative process in both the House and the Senate for the passage of this bill. I do hope that both sides should not be micromanaging the visitor industry when it comes to the raising of the TAT because the visitor industry is fully supportive of this. With that, Mr. Speaker, I urge all the members to support this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2259, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 39 ayes to 12 noes, with Representatives Ahu Isa, Fox, Halford, Kawanakoa, McDermott, Meyer, Morita, Moses, Pendleton, Tarnas, Ward and Whalen voting no.

The Chair directed the Clerk to note that H.B. Nos. 1533, 2648, 2563, 2564, 2749 and 2909; and S.B. Nos. 2213 and 2259 had passed Third Reading at 11:55 o'clock p.m.

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 218) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 218, transmitting the Executive Order providing for a further extension of the Regular Session of 1998 of the Nineteenth State Legislature, as follows:

"EXECUTIVE ORDER"

WHEREAS, Section 10 of Article III of the Constitution of the State of Hawaii provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii for a period of one hour following 12:00 o'clock midnight, May 13, 1998.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 13th day of May, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

/s/ Margery S. Bronster

MARGERY S. BRONSTER
Attorney General"

At 11:56 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 12:01 o'clock a.m. on Thursday, May 14, 1998.

APPROVED AS TO FORM:

SIXTY-FIFTH DAY

Thursday, May 14, 1998

The House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 12:15 o'clock a.m., with the Speaker presiding.

The invocation was delivered in song by Representatives Ezra R. Kanoho, Lei Ahu Isa, Michael Puamamo Kahikina, Bertha C. Kawakami and Alexander C. Santiago, after which the Roll was called showing all members present with the exception of Representatives Hiraki and Takumi, who were excused.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 752 through 754) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 752, returning House Bill No. 2547, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," which passed Third Reading in the Senate on May 13, 1998.

Sen. Com. No. 753, informing the House that the following bills have passed Final Reading in the Senate on May 13, 1998:

H.B. No. 2500, HD 1, SD 1, CD 1, entitled: "RELATING TO THE STATE BUDGET"

H.B. No. 2823, HD 1, SD 1, CD 1, entitled: "RELATING TO MOTOR VEHICLE INSURANCE";

S.B. No. 2852, SD 1, HD 2, CD 1, entitled: "RELATING TO THE VOLUNTARY RESPONSE PROGRAM";

S.B. No. 2633, SD 1, HD 1, CD 1, entitled: "RELATING TO REAL PROPERTY APPRAISALS";

H.B. No. 2680, HD 2, SD 1, CD 2, entitled: "RELATING TO STUDENT-CENTERED SCHOOLS";

S.B. No. 379, SD 2, HD 2, CD 1, entitled: "RELATING TO RECYCLING";

S.B. No. 760, HD 2, CD 1, entitled: "RELATING TO SCHOOLS-WITHIN-SCHOOLS";

S.B. No. 2204, SD 2, HD 2, CD 1, entitled: "RELATING TO REGULATORY PROCESSES";

S.B. No. 2350, SD 1, HD 2, CD 1, entitled: "RELATING TO RECYCLING";

H.B. No. 3403, HD 2, SD 1, CD 2, entitled: "RELATING TO OFFENSES AGAINST PROPERTY";

S.B. No. 3024, SD 1, HD 1, entitled: "RELATING TO QUARANTINE";

S.B. No. 3025, SD 1, HD 1, entitled: "RELATING TO MILK CONTROL";

S.B. No. 3248, SD 2, HD 2, CD 1, entitled: "RELATING TO SPECIAL PURPOSE REVENUE BONDS";

H.B. No. 3446, SD 2, CD 1, entitled: "AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES";

H.B. No. 2990, HD 2, SD 2, CD 1, entitled: "RELATING TO AGRICULTURE";

H.B. No. 3443, HD 1, SD 2, CD 1, entitled: "RELATING TO LOANS";

H.B. No. 2560, HD 2, SD 2, CD 1, entitled: "RELATING TO THE UNIVERSITY OF HAWAII";

H.B. No. 1824, HD 2, SD 2, CD 1, entitled: "RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION";

H.B. No. 2710, HD 1, SD 1, CD 1, entitled: "RELATING TO THE JUDICIARY";

H.B. No. 1800, SD 1, CD 1, entitled: "RELATING TO CASH MANAGEMENT OF STATE FUNDS";

H.B. No. 2800, SD 1, CD 1, entitled: "RELATING TO MANAGEMENT OF STATE FUNDS";

H.B. No. 2803, SD 2, CD 1, entitled: "RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM";

S.B. No. 2386, SD 2, HD 2, CD 1, entitled: "RELATING TO COORDINATED CARE ORGANIZATIONS";

S.B. No. 2689, SD 2, HD 2, CD 1, entitled: "RELATING TO EMPLOYEES RETIREMENT SYSTEM";

H.B. No. 3625, HD 3, SD 2, CD 1, entitled: "RELATING TO GOVERNMENT REORGANIZATION";

S.B. No. 2254, SD 2, HD 2, CD 1, entitled: "RELATING TO PROSTITUTION";

S.B. No. 2966, SD 2, HD 2, CD 1, entitled: "RELATING TO CRIMINAL INJURIES COMPENSATION";

S.B. No. 3220, SD 1, HD 2, CD 1, entitled: "RELATING TO THE CONVEYANCE TAX";

S.B. No. 2092, SD 1, HD 1, CD 1, entitled: "RELATING TO INCOME TAX LAW";

H.B. No. 2750, HD 1, SD 1, CD 1, entitled: "RELATING TO STATE BONDS";

H.B. No. 1533, HD 2, SD 1, CD 1, entitled: "RELATING TO STATE FUNDS";

S.B. No. 2213, SD 2, HD 2, CD 1, entitled: "RELATING TO STATE GOVERNMENT";

H.B. No. 2648, HD 2, SD 1, CD 1, entitled: "RELATING TO WORKERS' COMPENSATION";

H.B. No. 2563, SD 2, CD 1, entitled: "RELATING TO SCHOOL-BASED BUDGETING";

H.B. No. 2564, HD 1, SD 2, CD 1, entitled: "RELATING TO EDUCATION";

H.B. No. 2749, HD 1, SD 1, CD 1, entitled:
"RELATING TO TAXATION";

H.B. No. 2909, HD 2, SD 1, CD 1, entitled:
"MAKING AN APPROPRIATION FOR
AGRICULTURAL RESEARCH AND
DEVELOPMENT";

S.B. No. 2259, SD 1, HD 1, CD 1, entitled:
"RELATING TO TAXATION";

S.B. No. 3004, SD 1, HD 1, CD 1, entitled:
"RELATING TO CONFORMITY OF THE HAWAII
INCOME TAX LAW TO THE INTERNAL REVENUE
CODE";

S.B. No. 2338, SD 2, HD 2, CD 1, entitled:
"RELATING TO THE CERTIFICATION OF
HOISTING MACHINE OPERATORS";

H.B. No. 2222, HD 2, SD 2, CD 1, entitled:
"MAKING AN APPROPRIATION TO MATCH
FEDERAL FUNDS FOR ESTABLISHMENT OF
MANUFACTURING EXTENSION PROGRAMS";

S.B. No. 2922, SD 1, HD 2, CD 1, entitled:
"RELATING TO GOVERNMENT";

H.B. No. 2552, HD 1, SD 3, CD 1, entitled:
"RELATING TO GOVERNMENT";

H.B. No. 1624, HD 1, SD 2, CD 1, entitled:
"RELATING TO BOILER AND ELEVATOR SAFETY
LAW";

S.B. No. 2618, SD 1, HD 1, CD 1, entitled:
"RELATING TO THE MEDICALLY
UNDERSERVED";

Sen. Com. No. 754, informing the House that the Senate has reconsidered its action of April 16, 1998, in disagreeing to the amendments proposed by the House to the following Senate Bills and have moved to agree to the amendments. The Senate further informs the House that said bills have passed Final Reading in the Senate on May 13, 1998:

S.B. No. 1559, SD 2, HD 3
S.B. No. 2757, SD 1, HD 1
S.B. No. 2782, HD 2
S.B. No. 3213, SD 2, HD 1

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative M. Oshiro, seconded by Representative Marumoto and carried, the rules were suspended for the purpose of considering bills on Third and Final Readings on the basis of a modified consent calendar.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 168 and S.B. No. 3004, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 3004, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Fox rose to speak in favor of the bill with reservations, stating:

"I am tremendously dismayed that this bill once again, when offered the opportunity to follow the federal government, President Clinton and the Congress in exempting from taxation payments for long-term care insurance and for long-term care expenses to treat those two categories as medical expenses, once again the State has chosen not to include those provisions in the IRC conformity bill.

"I was listening in on the Conference Committee when they discussed this point. The revenue loss is approximately \$8 million. We are about to pass a bill that's going to give us a revenue loss of \$10 million. We could have covered this cost. This is the most 'penny-wise, pound foolish' measure that I can imagine us taking. People who take care of their long-term care expenses privately are to be commended. They are going to save the State millions and millions of dollars for doing so. The federal government is smart enough to figure that out.

"I am truly dismayed at this action we are taking here this morning, but I have to support the overall bill.

"Thank you, Mr. Speaker."

Representative Kawanakoa rose in support of the bill with "one simple reservation," stating:

"This bill, as has been mentioned, conforms our State taxes to the Internal Revenue Code. It would be a much better bill if we were to take the actions as espoused by my learned colleague. And if we adopt this provision, we would save money and reduce government spending, Mr. Speaker, because we would be encouraging people to purchase long-term health care insurance and lessening the burden on the State, which we would otherwise be providing in health care in people's aging years.

"You know, this bill is really for the elderly. It is also for families who take care of the elderly. I note that we get this bill every year, and once more I would like to make a plea for including this item next time. It will cost us almost nothing as has just been mentioned, almost nothing in revenue losses, Mr. Speaker, and it will certainly save us money in the long run of the size that will help to take care of our elderly.

"Thank you."

Representative Halford rose and requested that the words of the Representative from Waikiki be entered into the Journal as his own, and the Chair "so ordered." (By reference only)

Representative Meyer rose in support of the bill with reservations and asked that the Clerk insert her comments into the Journal, and the Chair "so ordered."

Representative Meyer's remarks are as follows:

"Mr. Speaker, I rise to speak with reservations on S.B. 3004, SD 1, HD 1, CD 1. The federal government allows a deduction for long-term care costs for those who have to pay for the care of their parents and other family members out of their own pockets. This bill is supposed to represent a conformity of Hawaii Income Tax Law to the Internal Revenue Code.

"Such long-term care costs can often devastate a family's finances. Even the federal government understands that can happen. So, a deduction is made available.

"But not Hawaii. Hawaii taxpayers will not get the benefit of a long-term care costs deduction with this bill. What is it about the potential problems for our taxpayers with regard to long-term care expenses that we don't understand? Why does this bill ignore such a basic human concern? I can only believe that we're looking for all the revenue we can get. And one way, it seems, to collect more tax revenue is to disallow this deduction even if it hurts many of our families.

"For this reason, I must vote for the bill with reservations."

Representative Moses rose in support of the bill with reservations, stating:

"I just want to say that we had a long discussion on the House version of this bill as it passed through. And as has already been mentioned, we could save money in the long run for those who have been talking about those who need the medical support, just by giving what the federal government already gives to people and allowing investment credits basically for long-term care insurance and for medical deductions for that.

"I am sorry to say it's still excluded in this Senate version, but there are other good things in here so I am forced to vote for it with those reservations.

"Thank you, Mr. Speaker."

Representative Stegmaier rose and stated:

"On the same measure, I would like to express my reservations but with support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3004, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Final Reading by a vote of 50 ayes, with Representative Hiraki being excused.

Conf. Com. Rep. No. 169 and S.B. No. 2338, SD 2, HD 2, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2338, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative McDermott rose to speak against the bill, stating:

"The language of this measure is a little troubling. I believe any device that lifts or elevates could be covered by that, and forklifts, derricks or cranes would fall under the purview of this. Forklifts particularly are used in small business and it could hurt the small businessman burn some regulations, so I am going to vote against it.

"Thank you."

Representative Meyer rose to speak against the bill, stating:

"While we are in the process of eliminating all kinds of professional boards, we have before us a bill which creates a new advisory board for the certification of hoisting machine operators and establishes a hoisting machine operator's revolving fund. Fifty thousand dollars is coming out of the general fund as 'seed' money to start this revolving fund, to hire a part-time executive director, and a part-time secretary for the advisory board. This

seems so totally inappropriate while we are trying to streamline government and started this legislative session with a bill that would get rid of about fifty different boards.

"Admittedly, the revolving fund is directed to reimburse the appropriated amount to the general fund by July of 2000. But we are still creating two new positions and a new advisory board when we're supposed to be cutting back on government regulations and expenditures. This doesn't make good sense, Mr. Speaker. Therefore, I'm voting against this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2338, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF HOISTING MACHINE OPERATORS," passed Final Reading by a vote of 41 ayes to 9 noes, with Representatives Halford, Kawanakoa, Marumoto, McDermott, Meyer, Pendleton, Thielen, Ward and Whalen voting no, and Representative Hiraki being excused.

Conf. Com. Rep. No. 170 and H.B. No. 2222, HD 2, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2222, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR ESTABLISHMENT OF MANUFACTURING EXTENSION PROGRAMS," passed Final Reading by a vote of 50 ayes, with Representative Hiraki being excused.

Conf. Com. Rep. No. 171 and S.B. No. 2922, SD 1, HD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and S.B. No. 2922, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Final Reading by a vote of 50 ayes, with Representative Hiraki being excused.

Conf. Com. Rep. No. 172 and H.B. No. 2552, HD 1, SD 3, CD 1:

Representative Okamura moved that the report of the Committee be adopted and H.B. No. 2552, HD 1, SD 3, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative McDermott rose and stated:

"It is quite appropriate that I rise to speak against the bill.

"This is the 'mother' of all fees' bills, Mr. Speaker. I was in the Gulf War. That was supposed to be the 'mother' of all wars. This is the 'mother' of all fees. We increase the fee of copying by 100 percent. We increase school lunches by 33 percent, and I want our members to remember when people go to the polls this year -- I have three kids in the public school -- it costs \$2.25 a day. It's going to cost \$3. Those are things that parents remember. It establishes a fee of \$10 for divorce certificates. It raises marriage fees by 100 percent. Name change by 100 percent -- from \$50 to \$100. And there's a slew of other fees: duplicate documents from \$10 to \$15; certification of documents from \$5 to \$10. It's just loaded with fees all over the place.

"But the worst one is the school lunch. And I'll tell you as a parent, when a legislator comes to my door, I'm

going to ask why he voted to raise the kids' school lunches. I'm going to vote 'no' on this, 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. 2552, HD 1, SD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Final Reading by a vote of 36 ayes to 14 noes, with Representatives Ahu Isa, Aiona, Fox, Halford, Kawanakoa, Marumoto, McDermott, Meyer, Moses, Pendleton, Thielen, Ward, Whalen and White voting no, and Representative Hiraki being excused.

Conf. Com. Rep. No. 173 and H.B. No. 1624, HD 1, SD 2, CD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1624, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BOILER AND ELEVATOR SAFETY LAW," passed Final Reading by a vote of 48 ayes to 2 noes, with Representatives Marumoto and Meyer voting no, and Representative Hiraki being excused.

Conf. Com. Rep. No. 174 and S.B. No. 2618, SD 1, HD 1, CD 1:

Representative Okamura moved that the report of the Committee be adopted and S.B. No. 2618, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative M. Oshiro.

Representative Santiago rose to speak in support of the bill with reservations, stating:

"Mr. Speaker, I do believe this is one of the more important measures that we have considered this session. Unfortunately, I'm rising with some concerns that we did not put enough funding in this measure to really make the difference that we know we have to. Hawaii has for years been known as the 'Health State' and all over the nation, whenever I travel to represent Hawaii at the conferences on health care, they do look to us for the leadership that we have been known to have provided for the last decade.

"However, Hawaii has seen a growing number of medically uninsured population. We have gone from a low of two percent years ago, when we were touted all over the nation, to upwards of twelve percent. Many of these uninsured individuals are children. It really does look to me like a 'tidal wave' that is 'brewing' out there that is about to come crashing on our shores. I am not sure that we are prepared for this 'tidal wave' that is about to occur.

"When these underserved populations begin showing up in our emergency rooms for health care needs that should have been prevented through earlier preventive services provided by their doctors, which in the past they were able to access, we're going to be paying a lot more. Last year alone, we estimated over seven million dollars paid by our hospitals to those patients who came to the emergency rooms without the ability to pay. They were noninsured. This is going to cost us a lot more in the long run.

"I am really hopeful that we are going to be able to come up with a strategy to deal with this issue so that those individuals who, for no reason of their own, have found themselves without medical coverage. These individuals, many of them are working, are not people who are on welfare. These are individuals who sometimes work two part-time jobs. Again, for no reason of their own they are not able to find medical insurance,

and oftentimes they will not go and seek medical help until it's too late.

"I accept a lot of the responsibilities for perhaps not having made this issue the focus of the Health Committee's attention this legislative session. I thought I made it pretty clear to what the needs were. We have not been able to meet those needs, and as a result we are going to be looking at some strategies during the interim to try to deal with this issue.

"Thank you, Mr. Speaker."

Representative Kahikina rose to speak in support of the bill with reservations, stating:

"Mr. Speaker, as the Vice Chair of your Committee on Health, I share the same responsibility. I really thank the Vice Chair of Finance and the conferees for at least putting in some money in this vehicle. Five hundred thousand dollars was appropriated to address the QUEST Health Care Program, which draws down a dollar match in federal funds in another five hundred thousand dollars towards the uninsured.

"I guess I also feel that I kind of failed in educating this body. The truth of the matter is the compelling evidence that was presented to the Legislature of the shortfall in the resources of the uninsured, and that the QUEST had not fulfilled its obligation in the transition of community health centers to managed care. For reasonably compensating these health centers would drastically affect all nine health centers throughout the State, including the one in your district, Mr. Speaker. The irony of it all is that we see that appropriating money was more important for orangutans when our people are really suffering.

"For those matters, I would also request that the words of the capable Chair of Health be put in the Journal as my own," and the Chair "so ordered." (By reference only)

Representative Arakaki rose to speak in favor of the bill, stating:

"I would like to speak in favor of the bill and just express some concerns.

"First of all, I need to thank you, Mr. Speaker, and also the members of the Finance and Ways and Means Committees. Actually, I was called Monday night at 11:30 p.m. I was brushing my teeth and getting ready to go to bed. They said they had some money for the medically underserved bill. And I think both the Chair of the Health Committee and I thought there was no money available, so when they said 'get your okole down here if you want to see this bill funded,' I hopped into my car and drove as fast as I could, fully realizing that whatever we could appropriate would and could mean a difference in someone's life. And so I need to thank the conferees for finding the moneys and, Mr. Speaker, I need to thank you for your maneuvering to actually make the conferees available and make the funding available.

"I just heard some of the concerns that the Health Committee has because we were not able to fully fund it at the four million dollars original appropriation that was needed. And again, what it's going to mean because the rate of uninsured people has risen almost 50 percent over the past five years -- in 1992 with 70,000 uninsured and we're now at about 105,600 individuals -- I think we also need to look at what the community health centers contribute to the health of many people who cannot access the regular health care that we all do. I am not sure how many of us go to community health centers but the lines

are longer, the wait lists are longer, and a lot of the health care providers in our health centers are really being pressed hard. Like the Health Chair said, I think we can expect these problems to increase. Hopefully, we can count on the community health centers to respond but it is going to get more difficult, and I hope that we can work on these problems during the interim.

"Again, I want to thank you for at least providing a share of the money so that we can address the neediest in our community.

"Thank you, Mr. Speaker."

Representative Goodenow rose in support of the bill, stating:

"I, too, have some of the concerns of the earlier speakers. But I am very grateful, very grateful that the Finance Committee and the conferees were able to find some money in the end. This is a very important issue that we all need to look at in the future.

"Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2618, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICALLY UNDERSERVED," passed Final Reading by a vote of 50 ayes, with Representative Hiraki being excused.

FINAL READING

By unanimous consent, the following bills were taken from the Clerk's desk and the following actions taken:

H.B. No. 2671, HD 2, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2671, HD 2, and H.B. No. 2671, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC," passed Final Reading by a vote of 51 ayes.

H.B. No. 2888, HD 2, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2888, HD 2, and H.B. No. 2888, HD 2, SD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMPENSATION OF CRIMINAL INJURIES," passed Final Reading by a vote of 51 ayes.

H.B. No. 2892, HD 1, SD 1:

On motion by Representative Okamura, seconded by Representative Kawanakoa and carried, the House agreed to the amendments proposed by the Senate to H.B. No. 2892, HD 1, and H.B. No. 2892, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FACILITY REVENUE BONDS FOR AIRPORTS," passed Final Reading by a vote of 51 ayes.

H.B. No. 3527, HD 1, SD 2:

Representative Okamura moved that the House agree to the amendments proposed by the Senate to H.B. No. 3527, HD 1, and H.B. No. 3527, HD 1, SD 2, pass Final Reading, seconded by Representative Kawanakoa.

Representative Meyer rose to speak against the bill, stating:

"I don't have the Senate draft before me. This is House Bill 3527, HD 1, SD 2. This is for E-Bonds for the Hui 'Enekinia Hawai'i. I'm not absolutely sure what's in it now. When it came before the Finance Committee, it sounded like the people that wanted this money out wasn't absolutely sure what they were going to spend it on. They talked about doing something for the prison that was planned out in Ka'u, something about creating alternative energy.

"It sounds like they just want to get the bonds to do something but it needs to be better defined. It may be that it is better defined in Senate Draft 2, but because I am not aware of what's in there now, I will be voting 'no.'

"Thank you."

At 12:44 o'clock a.m., Representative Saiki asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:45 o'clock a.m.

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 3527, HD 1, and H.B. No. 3527, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR PROJECTS ON THE ISLAND OF HAWAII," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Meyer voting no.

The Chair directed the Clerk to note that H.B. Nos. 2671, 2888, 2892 and 3527 had passed Final Reading at 12:46 o'clock a.m.

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

The House of Representatives reconvened at 12:47 o'clock a.m.

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 219) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 219, transmitting the Executive Order providing for a further extension of the Regular Session of 1998 of the Nineteenth State Legislature, which reads as follows:

"EXECUTIVE ORDER

WHEREAS, Section 10 of Article III of the Constitution of the State of Hawaii provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the Governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby further extend the Regular Session of 1998 of the Nineteenth Legislature of the State of Hawaii for a period of one hour following 1:00 a.m., May 14, 1998.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 14th day of May, 1998.

/s/ Benjamin J. Cayetano
BENJAMIN J. CAYETANO
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Margery S. Bronster

MARGERY S. BRONSTER
Attorney General

At 12:49 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:50 o'clock a.m.

THIRD READING

S.B. No. 2065, SD 1:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, S.B. No. 2065, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 51 ayes.

S.B. No. 3075, SD 2:

On motion by Representative Okamura, seconded by Representative M. Oshiro and carried, S.B. No. 3075, SD 2, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Third Reading by a vote of 51 ayes.

The Chair directed the Clerk to note that S.B. Nos. 2065 and 3075 had passed Third Reading at 12:51 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 86 through 90) were announced by the Clerk and the following actions taken:

H.R. No. 86, entitled: "HOUSE RESOLUTION AUTHORIZING AND EMPOWERING THE SPEAKER TO EXPEND SUCH SUMS TO COMPLETE THE WORK OF THE NINETEENTH LEGISLATURE, REGULAR SESSION OF 1998, INCLUDING THE CARRYING OUT OF ANY OFFICIAL LEGISLATIVE BUSINESS IN THE INTERIM BETWEEN THE 1998 AND 1999 SESSIONS," was jointly offered by Representatives Souki, P. Oshiro, Okamura and Kawananaoka.

On motion by Representative Okamura, seconded by Representative Kawananaoka and carried, H.R. No. 86 was adopted.

H.R. No. 87, entitled: "HOUSE RESOLUTION AUTHORIZING THE SPEAKER TO APPROVE THE

JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 65TH DAY," was jointly offered by Representatives Souki, P. Oshiro, Okamura and Kawananaoka.

On motion by Representative Okamura, seconded by Representative Kawananaoka and carried, H.R. No. 87 was adopted.

H.R. No. 88, entitled: "HOUSE RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, REGULAR SESSION OF 1998," was jointly offered by Representatives Souki, P. Oshiro, Okamura and Kawananaoka.

On motion by Representative Okamura, seconded by Representative Kawananaoka and carried, H.R. No. 88 was adopted.

H.R. No. 89, entitled: "HOUSE RESOLUTION AUTHORIZING THE SPEAKER TO DESIGNATE WHICH OF THE EMPLOYEES AND OFFICERS OF THE HOUSE BE GIVEN ADDITIONAL EMPLOYMENT TO MEET THE WORK AFTER THE SESSION AND IS FURTHER AUTHORIZED TO DETERMINE THE PERIOD OF EMPLOYMENT," was jointly offered by Representatives Souki, P. Oshiro, Okamura and Kawananaoka.

On motion by Representative Okamura, seconded by Representative Kawananaoka and carried, H.R. No. 89 was adopted.

H.R. No. 90, entitled: "HOUSE RESOLUTION RELATING TO STANDING AND SPECIAL COMMITTEES AUTHORIZED TO CONDUCT HEARINGS DURING THE INTERIM BETWEEN THE ADJOURNMENT OF THE REGULAR SESSION OF 1998 AND THE CONVENING OF THE REGULAR SESSION OF 1999," was offered by Representative Souki.

On motion by Representative Okamura, seconded by Representative Kawananaoka and carried, H.R. No. 90 was adopted.

ANNOUNCEMENTS

Representative Kawananaoka rose and stated:

"I want to take a moment to thank you and the members of the House. As the Minority Leader, Mr. Speaker, I have tried to conduct myself in a stately manner. As you know, I've disagreed with the Majority on a few issues. Well, maybe a lot of issues. But, Mr. Speaker, I will always fight for my principles. I hope I have been 'principled' in my fighting. As I leave this House for a far distant place, Mr. Speaker, I will continue to fight for Hawaii, to protect our islands, and to bring home the best ideas to fix our economy.

"Mr. Speaker, it has been a privilege to serve under your tutelage and alongside all of my colleagues. As with you, Hawaii is and will always be my home. I want to earnestly thank each and every one of you for your public service, your dedication and sacrifice to the people of Hawaii and our beloved islands. Mr. Speaker, this is an honorable and distinguished body, and I am proud to have served with all of you here in the State House of Representatives.

"Thank you, Mr. Speaker. Aloha and God bless."

Representative Ward rose and stated:

"Mr. Speaker, I, too, rise in farewell.

"Mr. Speaker, I want to take this opportunity to thank you and the members of this august body for the opportunity to have served with you, and the opportunity to serve the people of Hawaii. It has indeed been a privilege and honor and a memorable eight years. I'll miss you all, this floor, and the marketplace of ideas by which we have huddled tonight for a long, long time.

"Thank you and God bless you. Aloha."

Representative Okamura rose and stated:

"Mr. Speaker, on behalf of all of the members, at this time I would like to thank all of the permanent staff for the outstanding work, the Clerk's Office, the Research Offices for both the Majority and Minority members, and the Sergeant-at-Arms Office. In particular, I would like to extend our special mahalo to all of the session employees who have volunteered their time with no pay during the extended period of the Legislature.

"Also, Mr. Speaker, I would like to take this opportunity to say a few words about two of our colleagues for whom tonight will be their final night in this chamber.

"Representative Gene Ward and Representative Quentin Kawanakoa have both served as leaders of the Minority Caucus. As captains of the 'loyal opposition', each of these gentlemen has at times held the 'feet' of the Majority to the fire of public scrutiny, and both have effectively guided their caucus in developing and advocating their party's legislative positions and philosophies. Over the years, I and other members of this House have, on occasion, engaged in verbal 'battles' or otherwise disagreed with their positions on specific legislation. I believe I can speak for all of us, however, that such disagreement was always within the context of specific legislation and never tainted by personal animosity.

"As each of you move on to pursue your personal goals, I wish to thank you for your service to the people of Hawaii and for the friendship, both personal and professional, that we have developed over these years. Representative Kawanakoa and Representative Ward, believe it or not, your presence will truly be missed in these chambers.

"Mr. Speaker, I'd also like to, at this time, recognize and extend our greatest mahalo and aloha to Senator Mike McCartney, the Co-Majority Leader of the Senate, who is standing on the side and who is also not returning after this session. It's been a great pleasure working with you, Senator, and I know I speak on behalf of Representative Marcus Oshiro also in thanking you for your great service to the people of Hawaii.

"To each of you -- the two Representatives and to Senator McCartney -- I offer my best wishes and aloha."

The Chair then stated:

"I have about a ten page speech here but because the hour is getting late, I am going to ask the Clerk if she could include my speech in the Journal, and I just want to make a few points.

"First of all, I want to send my best aloha to the outgoing Representatives -- the Minority Leader and the former Minority Leader. You've been great, great Representatives and great adversaries at times, but this is what makes democracy work.

"To the House Leadership, to the Chairs and to all the members, thank you very much for taking part in the democratic process. There were times when we have disagreed, and that is what the democratic process is all about. But together, with all of our different views, we have brought about what is needed for the State of Hawaii, and each of us has contributed the most he could within the resources that he has.

"Thank you all so very much for giving me the pleasure to serve as your Speaker. Aloha Nui Loa and God bless."

The Speaker's additional remarks are as follows:

"I would like to thank the Chairs and Vice Chairs for their tireless efforts this session. I'd like to also thank the Leadership teams, both Majority and Minority, for keeping the session proceedings on course.

"And, I would like to thank every one of you for demonstrating why you were elected to serve the people of Hawaii. You were sent to the Capitol to advocate what you believe in.

"And did you ever speak out this session!!

"All of you actively participated in the democratic process, articulating your positions on many important matters. This healthy dialogue among our colleagues is what our constituents expect.

"Every session, 51 members from every background and different districts come together and have a meeting of the minds. Each one of us is obligated to support what we think is right and to listen to our colleagues' opinions.

"All of you should be proud.

"The trait of a great legislator is to stand for what he or she believes in. Every one of you demonstrated this characteristic throughout the session. But throughout the dialogue and positioning, we have one ultimate goal in common -- to produce legislation that is best for the citizens of Hawaii.

"We faced many challenges this session of which we are all keenly aware:

- * Shrinking revenues
- * Bankruptcies
- * Layoffs
- * Closures
- * An unstable Asian market
- * Lower visitor counts

"Our final package addresses these issues at the core. We passed several measures that will significantly impact our citizens and economic recovery.

"After much debate, members of the Senate, House and the Governor produced a tax package that is fair and will cut personal income taxes. Over 80 percent of businesses will directly benefit from this reduction through lower tax payments. And, it will put more money in the pockets of consumers.

"We have produced a balanced budget and reduced expenditures by more than \$150 million. We are continuing our past efforts to right-size government. The House Finance Committee remained steadfast in its position that key State-provided services must be protected.

* The State will not face possible contempt of court proceedings under the Felix-Waihee Consent Decree.

* The Department of Education can continue its important mission of educating our youth.

* And, public safety and funding for new prisons remains in the final budget document.

"We passed many measures that will directly benefit businesses in this State which will mean more jobs.

* A significant package offering regulatory reform now goes to the Governor for consideration. The package, developed by small businesses, will improve the sometimes burdensome regulatory process. Businesses will spend less time in the processing phase.

* The frustration the business community expresses over permit processing will be lessened. Specifying time periods for licenses and permits, and spelling out requirements for applications, will help the business climate tremendously. Businesses will be able to open their doors faster.

* A resolution to the privatization issue has been passed. This measure will allow for current contracts to continue and sets a managed process to determine when a service is best performed by a private or public entity. Taxpayer dollars will go farther.

* The University of Hawaii will gain autonomy allowing it to compete for top researchers and set its own course. UH will become like the University of California system -- a major economic driver for the State.

* And, we have created a dedicated source of funding for tourism marketing and promotion. A tourism authority will develop a long-range plan and oversee the special fund expenditures.

"These key bills, coupled with the hundreds of other measures already passed this session, continue the structural changes we all set out to accomplish at the beginning of the session. Many of them will have an immediate impact and others will have positive benefits for years to come. Combined, they will send a strong signal locally and beyond our shores that Hawaii means business.

"Most importantly, we end this session with measures that offer renewed hope to our citizens. The bills enable businesses to expand which means more jobs and a healthier economy.

"Is there more work to be done? Always.

"But tonight marks the end of the Nineteenth Legislature. We have all arrived at the same destination. And, as it should be, we took many different paths to arrive here.

"Tomorrow, we will all return to our districts, tired, but proud. We ended with a well-rounded package of bills.

"My friends and colleagues, go home. Spend time with your families. Listen to your constituents. Pay attention to your jobs. (Make some money!!)

"Our paths will meet here again in January of 1999. We will bring new issues with us, continue to restructure government, and address the changing global economy. We will tackle each head-on.

"Please allow me to take one final moment to recognize someone that is looked upon by all of us as being fair and who knows the legislative process as well, and possibly better than all of us combined. I'm proud to announce that my Chief-of-Staff, Robin Matsunaga, will become the Ombudsman for the State of Hawaii. I have worked with Robin for eleven years and will miss his insight and intellect. But I wish him the best as he makes this career move.

"Thank you all again for your efforts this session. Through consensus and hard work, we have risen to the challenges we faced at the beginning of this session."

At 12:58 o'clock a.m., Representative P. Oshiro called for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:59 o'clock a.m.

ADJOURNMENT

Representative M. Oshiro moved that the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, adjourn Sine Die, seconded by Representative Marumoto and carried.

At 1:04 o'clock a.m., the Speaker rapped his gavel and declared the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, adjourned Sine Die.

**GOVERNOR'S MESSAGES RECEIVED AFTER THE ADJOURNMENT
OF THE LEGISLATURE SINE DIE**

Gov. Msg. No. 220, transmitting copies of the 1997 Annual Report prepared by the Convention Center Authority, pursuant to Section 352D-6, Hawaii Revised Statutes and Section 4 of Act 151, SLH 1991.

Gov. Msg. No. 221, informing the House that on May 19, 1998, he signed the following bill into law:

Senate Bill No. 2346 as Act 78, entitled: "RELATING TO INSURANCE."

Gov. Msg. No. 222, informing the House that on May 19, 1998, he signed the following bills into law:

House Bill No. 2858 as Act 79, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR EMERGENCY MEDICAL SERVICES"; and

House Bill No. 3021 as Act 80, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII HEALTH SYSTEMS CORPORATION".

Gov. Msg. No. 223, informing the House that on May 20, 1998, he signed the following bill into law:

House Bill No. 2358 as Act 81, entitled: "RELATING TO CHILD PASSENGER RESTRAINT SYSTEMS".

Gov. Msg. No. 224, informing the House that on May 26, 1998, he signed the following bills into law:

House Bill No. 2774 as Act 82, entitled: "RELATING TO THE UNIFORM INFORMATION PRACTICES ACT (MODIFIED)";

House Bill No. 2780 as Act 83, entitled: "RELATING TO CHILD SUPPORT ENFORCEMENT";

House Bill No. 3082 as Act 84, entitled: "RELATING TO ADMINISTRATIVE REVOCATION OF DRIVERS'S LICENSE";

House Bill No. 3185 as Act 85, entitled: "RELATING TO ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE";

House Bill No. 3581 as Act 86, entitled: "RELATING TO STATEWIDE TRAFFIC CODE";

Senate Bill No. 705 as Act 87, entitled: "RELATING TO CIVIL SERVICE EXEMPTIONS FOR THE JUDICIARY";

Senate Bill No. 1081 as Act 88, entitled: "RELATING TO CONSERVATION AND RESOURCES";

Senate Bill No. 1465 as Act 89, entitled: "RELATING TO PUBLIC EMPLOYEES";

Senate Bill No. 2132 as Act 90, entitled: "RELATING TO LIQUOR LICENSES";

Senate Bill No. 2180 as Act 91, entitled: "RELATING TO MOTOR CARRIERS";

Senate Bill No. 2874 as Act 92, entitled: "RELATING TO CHILD WELFARE SERVICES";

Senate Bill No. 2914 as Act 93, entitled: "RELATING TO COMMERCIAL DRIVER LICENSING";

Senate Bill No. 3002 as Act 94, entitled: "RELATING TO MEDICAL ASSISTANCE";

Senate Bill No. 3094 as Act 95, entitled: "RELATING TO MOTOR VEHICLES"; and

Senate Bill No. 3204 as Act 96, entitled: "RELATING TO TRACKING DEVICES".

Gov. Msg. No. 225, informing the House that on May 29, 1998, he signed the following bill into law:

Senate Bill No. 2866 as Act 97, entitled: "RELATING TO PERSONNEL FOR MENTAL HEALTH".

Gov. Msg. No. 226, informing the House that on June 3, 1998, he signed the following bills into law:

House Bill No. 92 as Act 98, entitled: "RELATING TO MOTOR VEHICLES";

House Bill No. 1049 as Act 99, entitled: "RELATING TO PAWNBROKERS";

House Bill No. 1099 as Act 100, entitled: "RELATING TO OCCUPATIONAL THERAPISTS";

House Bill No. 1332 as Act 101, entitled: "RELATING TO THE STATE WATER CODE";

House Bill No. 1577 as Act 102, entitled: "RELATING TO IRRIGATION WATER PROJECTS";

House Bill No. 1649 as Act 103, entitled: "RELATING TO PERJURY";

House Bill No. 1699 as Act 104, entitled: "RELATING TO THE HAWAII CAPITAL LOAN PROGRAM";

House Bill No. 1830 as Act 105, entitled: "RELATING TO EMERGENCY MEDICAL SERVICES";

House Bill No. 1868 as Act 106, entitled: "RELATING TO THE HAWAII HURRICANE RELIEF FUND";

House Bill No. 2331 as Act 107, entitled: "RELATING TO CONDOMINIUM PROPERTY REGIMES"; and

House Bill No. 2778 as Act 108, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR LEGAL SERVICES FOR DEPARTMENT OF HAWAIIAN HOME LANDS INDIVIDUAL CLAIMS REVIEW".

Gov. Msg. No. 227, informing the House that on June 5, 1998, he signed the following bills into law:

House Bill No. 2760 as Act 109, entitled: "RELATING TO SALARY PERIODS";

House Bill No. 2761 as Act 110, entitled: "RELATING TO SALARY PAYMENTS TO NEW EMPLOYEES"; and

House Bill No. 2990 as Act 111, entitled: "RELATING TO AGRICULTURE".

Gov. Msg. No. 228, informing the House that on June 12, 1998, he signed the following bills into law:

Senate Bill No. 2782 as Act 112, entitled: "RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFORE"; and

Senate Bill No. 3004 as Act 113, entitled: "RELATING TO THE CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE".

Gov. Msg. No. 229, informing the House that on June 13, 1998, he signed the following bill into law:

House Bill No. 3489 as Act 114, entitled: "RELATING TO HARBORS".

Gov. Msg. No. 230 transmitting copies of the **Hawaii Summit: Project 2011 A Strategic Plan for Action** prepared by the Executive Office on Aging.

Gov. Msg. No. 231, informing the House that on June 16, 1998, he signed the following bill into law:

House Bill No. 2560 as Act 115, entitled: "RELATING TO THE UNIVERSITY OF HAWAII".

Gov. Msg. No. 232, informing the House that on June 16, 1998, he signed the following bill into law:

House Bill No. 2500 as Act 116, entitled: "RELATING TO THE STATE BUDGET".

Gov. Msg. No. 233, transmitting copies of the Report on the Juvenile Justice State Advisory Council prepared by the Office of Youth Services, pursuant to Section 223 (a)(3)(D)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Gov. Msg. No. 234, transmitting Senate Bill Nos. 2580, 2922, 3076, 3213 and 3228 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 2580

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2580, entitled, 'A Bill for an Act Relating to the Hawaii State Student Council.'

The purpose of this bill is to statutorily establish the Hawaii State Student Council. Section 2 of Article X of the Constitution of the State of Hawaii provides that the 'Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education.'

There already is a Hawaii State Student Council that is a program that has been implemented and coordinated by the Department of Education for some time. That council was established under the regulations and policies of the Department of Education. The Board of Education adopted guidelines on July 20, 1972, which stated in part 'that the State Student Council is part of the school system governed by laws, policies, and regulations of the State Department of Education.' The guidelines also provided that the council shall work with the Department of Education. As such, this bill is not necessary to provide for proper operations of the council and there is no compelling need to statutorily establish an amended council at this time.

This bill also seeks to give the council the authority to determine the number of conference representatives. Any increase in representation will increase the conference's operating cost to a point where it will exceed current funding. Moreover, the council's current operating budget may not be able to accommodate a full-time staff adviser.

In addition, there are constitutional concerns regarding this bill. Section 6 of Article V of the State Constitution requires that all executive branch instrumentalities of the state government be allocated by law among and within principal departments. There is no provision in this bill that allocates the council to the Department of Education or any other state Department. consequently, the statutory establishment of the council outside a principal department violates the Constitution of the State of Hawaii. Furthermore, section 14 of article III of the State Constitution requires that each law embrace one subject matter and express it in the title. this bill seeks to do more than its title suggests. The bill amends chapter 302A, Hawaii Revised Statutes, to establish the Hawaii State Student Council and goes further to repeal chapter 317, Hawaii Revised Statutes, eliminating the student conference committee and the student conference advisory committee. this two-fold purpose violates the single subject requirement of section 14 of article III of the State Constitution.

For the foregoing reasons, I am returning Senate Bill No. 2580 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2580, entitled, 'A Bill for an Act Relating to the Hawaii State Student Council,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2580 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2580 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS

HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 2922

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2922, entitled, 'A Bill for an Act Relating to Government.'

The purposes of this bill are to: (1) expand the current responsibilities of the Ombudsman to allow the Ombudsman to facilitate resolution of disputes on issues involving agencies; (2) provide for first deputies for the Legislative Auditor and Legislative Analyst, subject to the advice and consent of the Joint Legislative Management Committee; and (3) require that the respective first assistants to the Ombudsman and the Legislative Reference Bureau be subject to the advice and consent of the Joint Legislative Management Committee.

The proposed expansion of the Ombudsman's power to facilitate resolution of disputes on issues involving agencies, as set forth in section 1 of this bill, raises legal and policy concerns in two ways.

First, section 1 of this bill may sanction an unlawful delegation of executive power by the Legislature to the Ombudsman, in that the Ombudsman appears to be allowed to infringe on the Governor's supervisory authority over executive agencies, in violation of section 1, 5, and 6 of article V of the State Constitution.

Second, section 1 of this bill may sanction an unlawful delegation of judicial power by the Legislature to the Ombudsman. Section 96-8, Hawaii Revised Statutes, currently authorizes the Ombudsman to investigate an administrative act of an agency which might be:

- (1) Contrary to law; [or]
- (2) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law[.]

Section 1 of this bill expands these responsibilities to allow the Ombudsman to not only investigate, but 'to facilitate resolution of disputes on issues involving agencies' -- in essence, to interpret the law and be involved in disputes which may, if not resolved, become the focus of further complaints to which the Ombudsman could be viewed as being in conflict because of the Ombudsman's prior involvement.

For the foregoing reasons, I am returning Senate Bill No. 2922 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less

than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2922, entitled, 'A Bill for an Act Relating to Government,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2922 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2922 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 3076

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 3076, entitled, 'A bill for an Act relating to Executive and Administrative Departments.'

The purposes of Senate bill No. 3076 are to (1) create a contracts office ('office') within the Department of Human Service ('DHS') that is under the joint jurisdiction of DHS and the Department of Health ('DOH'); (2) require the DHS and DOH directors jointly to appoint a director of the office; (3) provide for the reassignment of currently serving employees of DOH and DHS to the office until June 30, 1999; (4) authorize the hiring of civil service employees to staff the office after June 30, 1999; (5) require the office to develop requests for proposals ('RFPs'), coordinate the issuance of RFPs, recommend proposal selection to the DHS and DOH directors, issue contracts, evaluate the effectiveness of contracted services, and, if not otherwise being performed, monitor contract performance and perform fiscal audits; (6) establish conditions of continued employment for transferred employees; (7) transfer all appropriations and personal property relating to the functions transferred from DOH and DHS to the office; (8) ensure that no moneys appropriated or funded to DOH and DHS are used by the office in a manner inconsistent with the measures authorizing the appropriation or funding; (9) require the DOH and DHS directors to submit, prior to the regular session of 1999, a plan of implementation for the office; and (10) require the director of the office to report, prior to the regular session of 2000, on the ability of the office to promote efficiency, avoid duplication, and maximize the use of resources, as

well as provide proposed legislation to improve the effectiveness of the office.

The bill appears to be unnecessary. Nothing prohibits DOH and DHS from coordinating and integrating their health and human services contracts now with the Department of Accounting and General Services ('DAGS'). In fact, such an effort is already under way. The Purchase of Service Team, comprised of representatives of agencies that have purchase of service ('POS') contracts, currently meets to assist DAGS in implementing chapter 103F, Hawaii Revised Statutes, the new chapter that will control contracts for health and human services after June 30, 1998.

Creation of the office and appointment of a director of the office and additional staff expands the size of state government. The bill authorizes the hiring of additional civil service employees to staff the office after June 30, 1999. The bill also requires the appointment of a director of the office, although the bill does not appropriate any funds for the position.

"Currently, contracts for DOH are developed on a decentralized basis. Each program in DOH develops its own RFPs and scopes of services and monitors and evaluates its own contracts. The result of this decentralization is that the DOH staff who develop contracts have expertise in specific areas and have duties in addition to working on contracts. Accordingly, it would not only be difficult to identify and reassign currently serving DOH employees to the office, but would also cause DOH staff dislocations.

Furthermore, it is not clear that this bill would result in increased efficiency. Because the office would have to contact the various, diverse DOH programs in order to develop RFPs, the addition of the office would likely result in additional delays in the execution of contracts and the encumbering of funds. Any added delays would be especially critical with respect to DOH's efforts to comply with federal requirements in the Felix case consent decree involving child and adolescent mental health services and the United States Department of Justice settlement agreement involving the Hawaii State Hospital.

For the foregoing reasons, I am returning Senate Bill No. 3076 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 3076, entitled, 'A Bill for an Act Relating to Executive and Administrative Departments,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 3076 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of

Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 3076 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 3213

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 3213, entitled, 'A Bill for an Act Relating to Insurance.'

The purpose of Senate Bill No. 3213 is to establish continuing education requirements for insurance license renewal, establish a Hawaii insurance education board to assist the insurance commissioner in overseeing the continuing education requirement, and create the insurance licensing administration revolving fund into which a portion of licensing fees and penalties would be deposited to fund non-civil service positions to run the licensing program.

There is no need to create a board and non-civil service positions to staff the board to monitor a continuing education program and process licenses. The Insurance Division already handles licensing functions through civil service employees and the continuing education program does not require additional levels of specialization or expertise. In addition, there is no appropriation to allow expenditure of the funds collected pursuant to this bill.

For the foregoing reasons, I am returning Senate Bill No. 3213 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 3213, entitled, 'A Bill for an Act Relating to Insurance,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 3213 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 3213 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 3228

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 3228, entitled, 'A Bill for an ACt Relating to Health.'

The purpose of Senate Bill No. 3228 is to amend the civil commitment law to authorize the involuntary psychoactive medication of civilly committed persons. Specifically, the bill would (1) establish standards which a court must find have been met before it may order involuntary medication, including a finding that the person is incompetent; (2) limit the duration of an involuntary medication order to ninety days; and (3) require immediate termination of the involuntary medication order when the subject has regained competency.

Although this bill makes a worthy attempt to codify a procedure to obtain court authority for involuntary psychoactive medication of civilly committed persons, the bill contains various legal problems that will hinder its successful implementation. Among other things, the bill requires proof of incompetence as a necessary condition to involuntary psychoactive medication, but it fails to define the terms 'competence' and 'incompetence.' Moreover, the bill requires that incompetence be proved beyond a reasonable doubt unnecessarily limits the number of persons for which the State would be able to obtain involuntary medication orders and thereby fails to recognize the State's legitimate interest in providing a safe environment for its patients and staff. In addition, the bill fails to establish a process for determining that a subject has regained competence, yet requires that an involuntary treatment order cease immediately when the subject of the order has regained competence.

Furthermore, the bill requires the Department of the Attorney General to assist all petitioners, including private physicians, who seek involuntary psychoactive medication orders. The required assistance includes the preparation of the case, as well as presentation of the case at hearing. No increase in funding or personnel was provided to the department for the performance of the additional work.

In any even, state resources should not be devoted to obtaining patient care orders for private physicians.

Finally, the bill espouses a limited approach to mental health treatment and does not acknowledge the full spectrum of treatment alternatives available to mental health care providers.

For the foregoing reasons, I am returning Senate Bill No. 3228 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 3228, entitled, 'A Bill for an Act Relating to Health,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 3228 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 3228 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 235, returning House Bill Nos. 1815 and 2357 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 1815

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1815, entitled, 'A Bill for an Act Relating to the Employees' Retirement System.'

The purposes of House Bill No. 1815 are to authorize the Board of Trustees of the Employees' Retirement System to appoint a chief investment officer and to

authorize the Board to retain its own attorney, notwithstanding any other law to the contrary.

Giving the Board the authority to hire private attorneys 'notwithstanding any other law to the contrary' is unnecessary and increases government costs. The Hawaii Public Procurement Code, chapter 103D, Hawaii Revised Statutes, and the statute governing the expenditure of public funds for legal services, section 28-8.3, Hawaii Revised Statutes, provide for the expeditious hiring of private attorneys when necessary. The Department of the Attorney General maintains lists of private attorneys with expertise in various areas of law, which are reviewed when a request is received from an agency for the services of a private attorney. Chapter 103D requires the Department to include a representative from the client agency on the selection committee to ensure that the client agency is afforded an opportunity to provide input in the selection process.

The present system of hiring private attorneys promotes cost savings. The Hawaii Public Procurement Code requires an agency to articulate its requirements so that an agency does not pay for services it neither wants nor needs. The process of considering more than one attorney promotes competition and reduces costs. Furthermore, it is prudent to have attorneys hiring attorneys since attorneys can best determine and evaluate the particular skills and knowledge required for a particular project.

The money spent on expensive private attorneys would be better used to develop expertise within the Department of the Attorney General to ensure long-term continuity in meeting the State's legal needs and to enable all state agencies to benefit from such in-house expertise. Finally, representation by the Attorney General or a private attorney hired by the Attorney General promotes consistency in the interpretation and application of the law.

For the foregoing reasons, I am, returning House Bill No. 1815 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1815, entitled, 'A Bill for an Act Relating to the Employees' Retirement System,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1815 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1815 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,

Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS HONOLULU

June 16, 1998

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2357

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2357, entitled, 'A Bill for an Act Relating to Indemnification of County Agencies.'

The purpose of House Bill No. 2357 is to allow state departments to agree to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees, when participating with the county on a joint state and county project, if the county requests the indemnification, the governor approves the proposed indemnification, and the comptroller obtains adequate insurance to cover the anticipated liability or has made a determination that obtaining such insurance is not in the best interest of the State.

While this bill may encourage joint intergovernmental projects between the State and the various counties by overcoming the counties' reluctance to enter into such agreements with the State due to concern over increased liability, this bill is not reciprocal -- i.e., while the State may have to indemnify the counties, the counties cannot be made to indemnify the State. Moreover, this bill serves to circumvent the protections the Attorney General has been insisting upon on behalf of the State.

For the foregoing reasons, I am, returning House Bill No. 2357 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2357, entitled, 'A Bill for an Act Relating to Indemnification of County Agencies,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2357 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this

proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2357 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 16th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 236, transmitting copies of the report, STATISTICS OF HAWAIIAN AGRICULTURE 1996.

Gov. Msg. No. 237, returning House Bill Nos. 2443 and 2878 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 2443

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2443, entitled, 'A Bill for an Act Relating to Real Property Encroachment.'

The purpose of House Bill No. 2443 is to amend the de minimus structure position discrepancy law (allowing small real property encroachments) by expressly including 'industrial property' under the law; changing the reference to 'a modern' survey to 'the most recent' survey; providing that when the property owner who constructed the encroaching improvement is not readily identifiable, the owner of the improvement shall be determined to be the owner of the property upon which the improvement is substantially located; changing the applicability of the law, which now applies to structure position discrepancies in effect on the effective date of the original law, June 16, 1997, to cover position discrepancies without regard to when they occurred; and making the amendments made by this bill retroactive to June 16, 1997.

The de minimus structure discrepancy law enacted last year allows encroaching structures to remain in place until removed or replaced for other reasons, as long as the structure is on privately owned land and not on public lands, the improvement was 'legally constructed along what was reasonably believed to be the boundary line,' and the amount of the encroachment is very small. The amount of the encroachment must be no more than 0.25 foot or 3 inches for commercial property (and industrial property under this bill) and multi-unit residential property, no more than 0.5 foot or 6 inches for all other residential property, no more than 0.75 foot or 9 inches for agricultural and rural property, and no more than 1.5 feet or 18 inches for conservation property. The original law was intended to allow for small encroachments that resulted from older, less accurate measurements that were reasonably believed to be accurate.

However, this bill will remove the limitation that the encroaching structure must have been in existence on

June 16, 1997, and will allow future real property encroachments to remain under the conditions of the de minimus structure position discrepancy law. The applicability of the law to future encroachments may promote abuse. Real property encroachments should not be encouraged.

For the foregoing reasons, I am, returning House Bill No. 2443 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2443, entitled, 'A Bill for an Act Relating to Real Property encroachment,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2443 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2443 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 2878

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2878, entitled, 'A Bill for an Act Relating to Aquatic Resources.'

The purpose of House Bill No. 2878 is to give the Department of Land and Natural Resources (DLNR) unusually limited authority to adopt administrative rules relating to aquatic resources that specify bag limits, sales restrictions, seasons, and restrictions on fishing gear.

These rules are to be reported to the Legislature for consideration as amendments to chapter 188, Hawaii Revised Statutes. If the Legislature does not enact changes to chapter 188 that correspond to the rules, the rules are nullified no later than ninety days following the adjournment of the legislative regular session during which the rules were reported.

Rulemaking authority subject to legislative standards has been delegated to executive branch agencies for decades. The extremely limited and unusual delegation of rulemaking authority to the DLNR contained in this bill is a major step backward and would result in unnecessary delay and considerable confusion for the public given the changeable status of the rules.

For the foregoing reasons, I am, returning House Bill No. 2878 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2878, entitled, 'A Bill for an Act Relating to Aquatic Resources,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2878 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2878 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 238, transmitting Senate Bill Nos. 2618 and 2887 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2618

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2618, entitled, 'A Bill for an Act Relating to the Medically Underserved.'

The purposes of Senate Bill No. 2618 are to: (1) require the Department of Health ('DOH') to provide resources to nonprofit community-based providers for community-based health care services to the uninsured; (2) appropriate \$500,000 to the DOH for the provision of primary health care for medically underserved populations; (3) require that health plans under the Department of Human Services' ('DHS') QUEST program pay federally qualified health centers ('FQHC') and rural health centers ('RHC') compensation in amounts comparable to what the plans pay their other providers in the same geographic area for comparable services; (4) require DHS to pay FQHCs and RHCs any difference between their reasonable costs to provide medical services and the compensation from the QUEST health plans for such services, pursuant to the Social Security Act; and (5) appropriate an additional \$500,000 to DHS for the provision of primary health care for medically underserved populations.

Presently, section 1902(a)(13)(C) of the Social Security Act requires Medicaid state agencies to reimburse FQHCs and RHCs for the difference between what they are paid by health plans and their reasonable costs. However, under the QUEST program, the State has the discretion to decide whether to reimburse FQHCs and RHCs. In addition, when the State decides to make such supplemental payments, reimbursement is based on a payment formula that results in a lower payment than that which is required under the Social Security Act.

It is well recognized that the broad scope of services provided by health centers contributes greatly to the well-being of the medically underserved in our community. While I recognize this bill's laudable goals in supporting the valuable service provided by community health centers, there are a number of significant legal and fiscal concerns associated with this bill. First, this bill has the potential of placing a tremendous financial burden upon the State indefinitely. The State would be increasing its financial obligations, because the bill requires the State to provide higher supplemental payments in perpetuity to FQHCs and RHCs than are currently required under the QUEST program. Second, beginning in the year 2000, the State would be obligating itself to the provision of even higher payments than the social Security Act would require. Recent amendments to the Social Security Act (section 4712 of the Balanced Budget Act of 1997) provide for the gradual 'phase out' of reasonable cost reimbursements beginning in fiscal year 2000. There is also a serious concern that the \$500,000 appropriation, combined with other funds available to DHS for these payments, will be insufficient to provide full supplemental payments to FQHCs and RHCs for the entire 1998-1999 fiscal year. In addition, the State may be exposing itself to an even greater, unspecified financial obligation should health plans choose to amend their provider agreements by decreasing the compensation provided to FQHCs and RHCs. Depending on the extent of the reduction in health plan payments to these centers, the State may find itself in need of large sums of money toward the end of this fiscal year to make up for health plan spending cuts.

The State recognizes the great value the FQHCs play in providing services to the medically underserved in our community. Therefore, I have directed the DHS to provide a portion of the funding for the provision of primary health care of medically underserved populations.

For the foregoing reasons, I am returning Senate Bill No. 2618 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2618, entitled, 'A Bill for an Act Relating to the Medically Underserved,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2618 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2618 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2887

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2887, entitled, 'A Bill for an Act Relating to Amusement Rides, Including Bungee Jumping.'

The purposes of Senate Bill No. 2887 are to allow the Department of Labor and Industrial Relations (DLIR) to regulate bungee jumping; exempt coin-operated and kiddie rides from DLIR regulation; authorize the DLIR to enter any premises to determine compliance with chapter 397, Hawaii Revised Statutes (HRS), or investigate any accident; require the DLIR to adopt rules to require contractors, owners, and operators to report to the DLIR accidents, injuries, and deaths related to the construction, use, or maintenance of boilers, pressure systems, amusement rides, bungee jumps, and elevators and kindred equipment, permit the DLIR to assess fees for the training of its inspectors; permit the DLIR to prohibit the use of a boiler, pressure system, amusement ride, bungee jump, or elevator and kindred equipment when there is an

imminent hazard situation; and delete the provision allowing the DLIR to apply to the circuit court for a temporary restraining order.

Section 14 of Article III of the State Constitution requires that '[e]ach law shall embrace but one subject, which shall be express in its title.' The subject of this bill, as expressed in its title, is 'amusement rides, including bungee jumping, in the statutes. The amendments change statutory provisions that literally also apply to boilers, pressure systems, and elevators and kindred equipment. To the extent that the amendments do make substantive changes that affect boilers, pressure systems, and elevators and kindred equipment, the amendments in this bill are beyond the scope of the title of this bill and are subject to challenge as having been enacted in violation of the single-subject requirement of Section 14 of Article III of the State Constitution.

Although the amendments in this bill pertaining to amusement rides are within the scope of the title to this bill, the presence of both valid and invalid provisions throughout the difficulties in administration. Under the existing statutory scheme in the Boiler and Elevator Safety Law, chapter 397, HRS, and the definition of 'amusement ride' found in section 12-250-2, Hawaii Administrative Rules, bungee jumps appear to be amusement rides. Since the DLIR already has the authority to regulate bungee jumps in this State under its administrative rules and bungee jumps may be regulated without amendment of chapter 397, there is no need to make the statutory amendments that will result in confusion and administrative difficulties.

For the foregoing reasons, I am returning Senate Bill No. 2887 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2887, entitled, 'A Bill for an Act Relating to Amusement Rides, Including Bungee Jumping,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2887 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2887 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO

Governor of Hawaii"

Gov. Msg. No. 239, transmitting Senate Bill Nos. 379, 2349 and 2586 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 379

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 379, entitled, 'A Bill for an Act Relating to Recycling.'

The purpose of Senate Bill No. 379 is to impose a refundable deposit of \$7.00 on the sale of each new motor vehicle tire that is not accompanied by a trade-in tire and to ensure that used tires are disposed of through a permitted facility.

I support this bill's worthy attempt to ensure that used tires are not disposed of at illegal dump sites. However, section 342I-23 (a)(2)(D), Hawaii Revised Statutes, already requires the price of a new tire to include the disposal of the used tire. This bill may require the consumer to pay an additional \$7.00 per tire. From the perspective of the consumer, the \$7.00 per tire deposit means that consumers who buy four new tires without returning the old tires will pay an additional \$28.00. Therefore, this bill may create an increased economic burden on the consumer.

In addition, this bill creates problems for the tire retailer. since the deposit is mandatory, the assessment of the deposit must be disclosed in all quotations of price including all advertising. This will result in an increase in advertising costs to the tire retailer. Furthermore, the bill does not address how long the retailer would be required to hold the deposit and whether the unclaimed deposit should be treated as income to the retailer or unclaimed property pursuant to chapter 523A, Hawaii Revised Statutes. Finally, it does not address how the deposit should be treated when a tire retailer goes out of business.

For the foregoing reasons, I am returning Senate Bill No. 379 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 379, entitled, 'A Bill for an Act Relating to Recycling,' passed by the Legislature,

was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 379 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 379 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 2349

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2349, entitled, 'A Bill for an Act Relating to Environmental Health.'

The purposes of this bill are to (1) change the name of the Environmental Health Program enhancement and Education Fund to the Environmental Health Education Fund; (2) expand the purposes for which moneys in the fund are to be expended by including consultations and educational programs for industries regulated by the Department of Health; (3) eliminate the automatic repeal provision of the enabling legislation; and (4) create a Hawaii Strategic Environmental Initiative Task Force to develop a proposal for a matching grant award from the State Environmental Initiative Program of the Council of State Governments and the United States-Asia Environmental Partnership.

Creation of the Hawaii Strategic Environmental Initiative Task Force does not appear to be necessary, because the Department of business, Economic Development, and Tourism has recently received federal funds for fiscal year 1998-1999 under this program and is already submitting additional proposals pursuant to existing budget execution policies. In addition, provisions affecting the Environmental Health Program Enhancement and Education fund that accomplish the same purposes as this bill are contained in House Bill No. 2552, which was also passed by the Legislature and is a more comprehensive bill that contains provisions amending the laws pertaining to other health programs. Since I intend to approve House Bill No. 2552, there is no necessity to also approve this bill.

For the foregoing reasons, I am returning Senate Bill No. 2349 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2349, entitled, 'A Bill for an Act Relating to Environmental Health,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2349 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2349 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

June 22, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 2586

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2586, entitled, 'A Bill for an Act Relating to Captive Insurance Companies.'

The purpose of Senate bill No. 2586 is to clarify the scope, licensure requirements, and law applicable to pure captive insurance companies and association captive insurance companies.

The amendments made by this bill are included, with other amendments, in House Bill No. 2672, also entitled 'A Bill for an Act Relating to Captive Insurance Companies' and also passed by the Legislature. Since I intend to approve House Bill No. 2672, there is no necessity to also approve this bill.

For the foregoing reasons, I am returning Senate Bill No. 2586 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2586, entitled, 'A Bill for an Act Relating to Captive Insurance Companies,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2586 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2586 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 22th day of June, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 240, informing the House that on June 22, 1998, he signed the following bill into law:

Senate Bill No. 3105 as Act 117, entitled:
"RELATING TO INSURANCE".

Gov. Msg. No. 241, informing the House that on June 22, 1998, he signed the following bill into law:

House Bill No. 3443 as Act 118, entitled: "RELATING TO LOANS".

Gov. Msg. No. 242, informing the House that on June 22, 1998, he signed the following bills into law:

House Bill No. 1800 as Act 119, entitled: "RELATING TO CASH MANAGEMENT OF STATE FUNDS";

House Bill No. 2426 as Act 120, entitled: "RELATING TO TAXATION";

House Bill No. 2496 as Act 121, entitled: "RELATING TO SERVICES FOR THE INDIGENT";

House Bill No. 2506 as Act 122, entitled: "RELATING TO FORECLOSURES";

House Bill No. 2524 as Act 123, entitled: "RELATING TO CONTESTS FOR CAUSE";

House Bill No. 2613 as Act 124, entitled: "RELATING TO THE BOARD OF SUPERVISORS";

House Bill No. 2660 as Act 125, entitled: "RELATING TO THE PUBLIC SERVICE COMPANY TAX";

House Bill No. 2710 as Act 126, entitled: "RELATING TO THE JUDICIARY";

House Bill No. 3024 as Act 127, entitled: "RELATING TO PUBLIC ASSISTANCE";

Senate Bill No. 721 as Act 128, entitled: "RELATING TO THE JUDICIARY";

Senate Bill No. 2078 as Act 129, entitled: "RELATING TO OCEAN RECREATION";

House Bill No. 1824 as Act 130, entitled: "RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION"; and

House Bill No. 3130 as Act 131, entitled: "RELATING TO A CONSTITUTIONAL CONVENTION".

Gov. Msg. No. 243, informing the House that on June 24, 1998, he signed the following bills into law:

House Bill No. 1966 as Act 132, entitled: "RELATING TO ADULT RESIDENTIAL CARE HOMES";

House Bill No. 2862 as Act 133, entitled: "RELATING TO SERVICES FOR DEVELOPMENTAL DISABILITIES"; and

Senate Bill No. 2987 as Act 134, entitled: "RELATING TO CHILD PROTECTION".

Gov. Msg. No. 244, informing the House that on June 24, 1998, he signed the following bills into law:

House Bill No. 3527 as Act 135, entitled: "RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR PROJECTS ON THE ISLAND OF HAWAII";

Senate Bill No. 2334 as Act 136, entitled: "RELATING TO TIME SHARING PLANS"; and

Senate Bill No. 2983 as Act 137, entitled: "RELATING TO OFFICE OF INFORMATION PRACTICES".

Gov. Msg. No. 245, informing the House that on June 24, 1998, he signed the following bills into law:

House Bill No. 2361 as Act 138, entitled: "RELATING TO MOTOR VEHICLE TOWING FEES"; and

Senate Bill No. 2759 as Act 139, entitled: "RELATING TO THE TRAFFIC CODE".

Gov. Msg. No. 246, returning House Bill Nos. 2563, 2564, 2670, 2675 and 3065 without his approval and with his statement of objections relating to the measures, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 2563

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2563, entitled, 'A Bill for an Act Relating to School-Based Budgeting.'

The primary purpose of House Bill No. 2563 is to provide guidelines to ensure implementation of school-based budgeting beginning with the fiscal biennium 1999-2001. The Economic Revitalization Task Force recommended school-by-school budgeting in order to evaluate the spending priorities of the Department of Education (DOE) by making available to the public information on how the DOE is allocating and expending funds for specific educational programs, particularly at the school level.

The provisions of this bill will unreasonably increase the workload of the DOE, and will also impact the workloads of the Department of Budget and Finance and the Department of Accounting and General Services at a time when positions are being eliminated. The bill will require the DOE's budget to include over 200 budget programs, one for each school, including the adult community schools. Each school must engage in mandatory school-by-school budgeting, which will greatly increase the administrative duties of school principals.

Representatives of the DOE testified during the legislative session that the department could not meet the July 1, 1998, start date imposed by the bill. Principals will not be at work during the critical months of July and August, when the schools must be developing their biennium budgets. Moreover, school principals have previously never prepared budgets as contemplated by this bill, and concerns exist as to whether sufficient training can be completed within the next few months.

The DOE and the Department of Budget and Finance have proposed alternative means of disseminating information regarding school-by-school expenditures, which should be considered.

The new Superintendent of Education and the Hawaii State Teachers Association support my decision to return this bill without my approval and concur that the requirements of this bill are too burdensome.

For the foregoing reasons, I am, returning House Bill No. 2563 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2563, entitled, 'A Bill for an Act Relating to School-Based Budgeting,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2563 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2563 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 2564

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2564, entitled, 'A Bill for an Act Relating to Education.'

The purpose of this bill is to establish a temporary commission on educational accountability. The Department of Education ('DOE') has serious concerns with this bill because the bill provides for unnecessary duplication of duties and responsibilities already being performed by the DOE's Planning and Evaluation Branch. The Planning and Evaluation Branch is responsible for evaluating schools as part of its comprehensive Assessment and Accountability System. The Planning and Evaluation Branch also monitors schools to ensure compliance with federal requirements under the Improving America's Schools Act.

furthermore, the proposed temporary commission would duplicate the work already being performed by the Western Association of Schools and Colleges ('WASC') accreditation teams, which regularly review and accredit all secondary schools.

The cost to support the operations of this temporary commission, I believe, would not be a wise use of limited resources. As to other aspects of the bill with the exception of the authority to charge a deposit fee for textbooks, the DOE already has the authority to hire part-time teachers, currently prepares cross-sectional and longitudinal reports, and is in the process of developing a system similar to the 'comprehensive student support system' proposed by the bill.

The new Superintendent of Education and the Hawaii State Teachers Association support my decision to return this bill without my approval to allow the new Superintendent the opportunity to address the concerns raised in this bill.

For the foregoing reasons, I am, returning House Bill No. 2564 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2564, entitled, 'A Bill for an Act Relating to Education,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2564 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2564 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 2670

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2670, entitled, 'A Bill for an Act Relating to Psychologists.'

The purpose of House Bill No. 2670 is to clarify that certain licensed professionals other than psychologists may practice psychotherapy.

Section 465-3(5), Hawaii Revised Statutes, currently exempts from the regulation of psychologists '[a]ny person who is a member of another profession licensed under the laws of this jurisdiction to render services within the scope of practice as defined in the statutes regulating the person's professional practice.' If the statutes regulating another profession do not specify any academic or clinical training requirements and the minimum professional standards to offer mental health services, including psychotherapy, the licensed members of that profession are not exempted from the requirements of the regulation of psychologists under chapter 465, Hawaii Revised Statutes. This bill will amend section 465-3(5) to delete the words 'as defined in the statutes regulating' and will allow those other profession to begin the unregulated practice of psychology without specifying minimum professional standards.

Instead of deleting the requirement that the statutes regulating the other professions define their practice, those other statutes should be amended to define the practice of the other professions to include the practice of

psychotherapy. The academic and clinical training requirements and the minimum professional standards should be specified in the statutes regulating the other professions in order to ensure the protection of the health-care consumers.

For the foregoing reasons, I am, returning House Bill No. 2670 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2670, entitled, 'A Bill for an Act Relating to Psychologists,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2670 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2670 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2675

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2675, entitled, 'A Bill for an Act Relating to Consumer Protection.'

The purposes of House Bill No. 2675 are to: (1) eliminate certain regulatory boards and transfer the licensing and regulatory functions of these boards to the Director of commerce and Consumer Affairs; (2) eliminate the Board of Osteopathic Examiners and transfer the licensing and regulatory functions of this board to the Board of Medical Examiners; (3) require the state chiropractic licensing examination to be prepared,

administered, and graded by a professional testing agency and require the Board of Chiropractic Examiners to determine the passing score; (4) require the Legislative Reference Bureau to conduct a study on the dental licensing examination and a study on the dental provider reimbursement practices of insurers and related activities; (5) define 'premium' as it relates to surety bonds; and (6) designate as an unfair and deceptive trade practice the use of an agreement or instrument that eliminates or diminishes the protections that a bond provides to a homeowner of home construction or improvements.

Although I believe that the purpose of this bill to increase government efficiency and professional and vocational regulatory processes by eliminating certain regulatory boards has merit, the amendment pertaining to home construction bonds will inadvertently eliminate the use of material house bonds used by owner-builders. This bill will declare to be a deceptive trade practice the use of any document that 'eliminates or diminishes the protections that a bond provides to a homeowner for home construction or home improvements.' However, the bill does not take into consideration owner-builders. Material houses that have issued material house bonds have taken indemnifications from the builders. When the builder is also the homeowner, the indemnification of the homeowner as the builder will eliminate or diminish the protection of the bond. Consequently, the effect of this bill will be to eliminate the issuance of material house bonds when the homeowners are attempting to build their own homes and thereby prevent homeowner self-help projects may be the only alternative for some homeowners to build or improve their homes.

While the Legislature's concerns about the legality of material house bonds is understandable, the use of material house bonds should be further studied before legislative action is taken. These type of bonds are intended to satisfy the requirements of lending institutions and are not intended to protect the homeowner who is the builder.

For the foregoing reasons, I am, returning House Bill No. 2675 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2675, entitled, 'A Bill for an Act Relating to Consumer Protection,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2675 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2675 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO"
Governor of Hawaii

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS
TO HOUSE BILL NO. 3065

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 3065, entitled, 'A Bill for an Action Relating to Taxation.'

The stated purpose of House Bill No. 3065 is to create a system for collecting the cigarette tax by requiring cigarettes sold in Hawaii to be affixed with a tax stamp. This bill also delays the current statute's June 30, 1998, cigarette tax increase until December 31, 1998. Finally, the bill amends the income tax credit for television and motion film production by clarifying where the credit applies to transient accommodations cost and adding definitions for 'benefits,' 'labor costs,' and 'production costs.'

This bill is unacceptable for a number of reasons.

In delaying the current law's June 30, 1998, cigarette tax increase until December 31, 1998, this bill undermines the original purpose of the tax increase, to discourage smoking, especially among Hawaii's youth. The Department of the Attorney General and many public health organizations, including the Department of Health, the Hawaii Medical Association, the Hawaii Nurses' Association, the American Lung Association, the American Cancer Association, the Coalition for a Tobacco Free Hawaii, the Campaign for Tobacco Free Kids, the Effective National Action to Control Tobacco (ENACT), testified against any deferral or repeal of the tax increase.

Next, there is no evidence of large-scale black market cigarette sales according to federal agencies, including the United States Customs Service and the Bureau of Alcohol, Tobacco and Firearms. Further, this bill will not solve the problem, if one exists, without appropriate monitoring and enforcement. However, since this bill does not allocate funds or personnel for these purposes, it is doubtful that this bill could accomplish its objective of preventing the sale of black market cigarettes.

Further, this bill requires the use of tax stamps beginning September 1, 1998, which is too short a period for the planning and implementation of such an ambitious tax collection mechanism. Before implementing this collection system, stamps and tax forms would have to be designed and printed and a system for distribution, collection, reporting, and enforcement would have to be created.

Finally, this bill's discrimination in favor of employing Hawaii resident over out-of-state residents presents a constitutional problem. the film credit portion of the bill

limits the 'labor cost' component of the tax credit to expenditures for employees who are Hawaii residents. The Interstate Privileges and Immunities Clause of Section 2 of Article IV of the United State Constitution prohibits discrimination by a state in favor of its own citizens when the denial concerns 'fundamental rights' such as the pursuit of a livelihood. Under the commerce Clause, state laws that discriminate against out-of-state competition to the benefit of local economic interests are almost always held invalid. The bill's discrimination against out-of-state residents opens the door to a challenge on one or both of these grounds.

For the foregoing reasons, I am, returning House Bill No. 3065 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 3065, entitled, 'A Bill for an Act Relating to Taxation,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 3065 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 3065 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 247, transmitting Senate Bill Nos. 760, 2757 and 3000 without his approval and with his statement of objections relating to the measure, as follows:

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 760

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without

my approval, Senate Bill No. 760, entitled, 'A Bill for an Act Relating to Schools-Within-Schools.'

The purpose of Senate Bill No. 760 is to establish a process for creating schools-within-schools pursuant to rules adopted by the Board of Education under chapter 91, Hawaii Revised Statutes. Schools-within-schools is an education model that includes an alternative curriculum, instructional, and management approach, and which may also encompass alternative days, weeks, and school years. The bill requires the Department of Education to adopt rules regarding schools-within-schools pursuant to chapter 91, Hawaii Revised Statutes, by March 31, 1999.

Although I support the intent of this bill to have a process established for creating schools-within-schools, the development of specific procedures to create schools-within-schools are policy matters that should be left to the Board of Education to determine.

How a school operates is a matter of internal management and is for the Department of Education and Board of Education to determine. This is not a matter that should be mandated by statute or rule to prescribe how a school is to operate. This bill also conflicts with the direction of School/Community-Based Management.

Since the Department of Education can determine the specific procedures under its internal management authority under the existing statutes, this bill is unnecessary.

The recently appointed Superintendent of Education, himself a strong proponent of the 'school within a school' concept, has reviewed the bill and supports my decision.

For the foregoing reasons, I am returning Senate Bill No. 760 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 760, entitled, 'A Bill for an Act Relating to Schools-Within-Schools,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 760 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 760 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2757

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2757, entitled, 'A Bill for an Act Relating to Environmental Assessments.'

The purpose of Senate Bill No. 2757 is to amend sections 343-3 and 343-5, Hawaii Revised Statutes, (1) to allow public agencies or private entities to not respond to public comments on environmental assessments and to decline to prepare environmental impact statements ('EISs') when they cancel the proposed actions that were the subject of an environmental assessment; (2) to require the Office of Environmental Quality Control (OEQC) to provide public notice of cancellation of a proposed action; and (3) to allow for a fifteen-day extension of the public comment period on environmental assessments when the agency or the private entity sponsoring the relevant action requests such an extension.

Chapter 343, Hawaii Revised Statutes, and the administrative rules adopted by OEQC already allow public agencies and private entities to decline to respond to public comments on environmental assessments and draft EISs and to decline to prepare final EISs when they have canceled the projects in issue. In addition, OEQC already may provide public notice of cancellation of a proposed action. Consequently, this bill is in part unnecessary. We should not use the State's limited resources for the enactment of laws that are unnecessary.

Furthermore, the bill is ill-advised, providing only for fifteen-day extensions of the public comment periods on environmental assessments and omitting any provision for extension of the public comment period on EISs. In various circumstances, it will benefit the public, the relevant stat agencies, and project sponsors to allow for longer extensions of the public comment periods on environmental assessments and to provide for some extensions of the public comment periods on EISs. Any amendment to chapter 343 that allows extension to public comment periods should provide for the possibility of longer extensions of the public comment periods on environmental assessments and for the possibility of extensions of the public comment period on EISs, as well.

For the foregoing reasons, I am returning Senate Bill No. 2757 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is

required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2757, entitled, 'A Bill for an Act Relating to Environmental Assessments,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2757 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2757 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

"EXECUTIVE CHAMBERS
HONOLULU

July 7, 1998

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 3000

Honorable Members
Nineteenth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 3000, entitled, 'A Bill for an Act Relating to the Employees' Retirement System.'

The purposes of Senate Bill No. 3000 are to authorize a designee of the Employees' Retirement System ('ERS') Board of Trustees to approve service retirements; to repeal occupational and total disability retirements and establish a single service-connected disability retirement benefit; clarify the amount payable to beneficiaries upon death of a retiree under the various pay out options for benefits; allow retirees who return to state employment to have their retirement benefit attributable to the second period of employment added to the benefit attributable to the first period of employment; allow elected officials and judges to terminate membership in the ERS anytime after attaining the maximum pension benefit ceiling of seventy-five per cent; and, eliminate partial cash and reduced annuity payments to simplify benefit calculations and reduce the number of semimonthly annuity payments.

The provisions of this bill are duplicated in House Bill No. 2803, which was also passed by the Legislature. Since I intend to approve House Bill No. 2803, there is no necessity to also approve this bill.

For the foregoing reasons, I am returning Senate Bill No. 3000 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 3000, entitled, 'A Bill for an Act Relating to the Employees' Retirement System,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 3000 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 3000 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 7th day of July, 1998.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Gov. Msg. No. 248, informing the House that on July 2, 1998, he signed the following bills into law:

House Bill No. 503 as Act 140, entitled: "RELATING TO CORRECTIONAL INDUSTRIES";

House Bill No. 1533 as Act 141, entitled: "RELATING TO STATE FUNDS";

House Bill No. 1624 as Act 142, entitled: "RELATING TO BOILER AND ELEVATOR SAFETY LAW";

House Bill No. 1647 as Act 143, entitled: "RELATING TO THE LICENSING OF CERTAIN SELLERS";

House Bill No. 2222 as Act 144, entitled: "MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR ESTABLISHMENT OF MANUFACTURING EXTENSION PROGRAMS";

House Bill No. 2332 as Act 145, entitled: "RELATING TO THE TRAFFIC CODE";

House Bill No. 2355 as Act 146, entitled: "RELATING TO CRIMINAL TRESPASS";

House Bill No. 2437 as Act 147, entitled: "RELATING TO CONTROLLED SUBSTANCES"; and

House Bill No. 2547 as Act 148, entitled: "RELATING TO AGRICULTURE".

Gov. Msg. No. 249, informing the House that on July 7, 1998, he signed the following bills into law:

House Bill No. 2381 as Act 149, entitled: "RELATING TO CRIME";

House Bill No. 2672 as Act 150, entitled: "RELATING TO CAPTIVE INSURANCE COMPANIES";

House Bill No. 2803 as Act 151, entitled: "RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM";

House Bill No. 2843 as Act 152, entitled: "RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS";

House Bill No. 3192 as Act 153, entitled: "RELATING TO SUPPORT ENFORCEMENT";

Senate Bill No. 2821 as Act 154, entitled: "RELATING TO THE CODE OF FINANCIAL INSTITUTIONS"; and

Senate Bill No. 2836 as Act 155, entitled: "RELATING TO INSURANCE FRAUD".

Gov. Msg. No. 250, transmitting copies of the 1997 annual report to the State Legislature on special purpose revenue bond financing of electric utility capital improvement programs. The reports were prepared by the Public Utilities Commission.

Gov. Msg. No. 251, informing the House that on July 9, 1998, he signed the following bill into law:

Senate Bill No. 2259 as Act 156, entitled: "RELATING TO TAXATION".

Gov. Msg. No. 252, informing the House that on July 10, 1998, he signed the following bill into law:

House Bill No. 2749 as Act 157, entitled: "RELATING TO TAXATION".

Gov. Msg. No. 253, informing the House that on July 13, 1998, he signed the following bill into law:

Senate Bill No. 2495 as Act 158, entitled: "RELATING TO WAGE AND HOUR LAW".

Gov. Msg. No. 254, informing the House that on July 14, 1998, he signed the following bills into law:

House Bill No. 2486 as Act 159, entitled: "RELATING TO MARRIAGE AND FAMILY THERAPISTS";

House Bill No. 2598 as Act 160, entitled: "RELATING TO AUTOMATIC EXTERNAL DEFIBRILLATORS";

House Bill No. 2846 as Act 161, entitled: "RELATING TO CIGARETTE SALES TO MINORS";

Senate Bill No. 1946 as Act 162, entitled: "RELATING TO THE PRACTICE OF MEDICINE";

Senate Bill No. 2092 as Act 163, entitled: "RELATING TO INCOME TAX LAW";

Senate Bill No. 2204 as Act 164, entitled: "RELATING TO REGULATORY PROCESSES";

Senate Bill No. 2338 as Act 165, entitled: "RELATING TO THE CERTIFICATION OF HOISTING MACHINE OPERATORS";

Senate Bill No. 2386 as Act 166, entitled: "RELATING TO COORDINATED CARE ORGANIZATIONS";

Senate Bill No. 2624 as Act 167, entitled: "RELATING TO THE HOMELESS";

Senate Bill No. 2803 as Act 168, entitled: "RELATING TO HAWAII SMALL BUSINESS REGULATORY FLEXIBILITY ACT";

Senate Bill No. 3141 as Act 169, entitled: "RELATING TO TAXATION"; and

Senate Bill No. 3220 as Act 170, entitled: "RELATING TO THE CONVEYANCE TAX".

Gov. Msg. No. 255, transmitting copies of Hawaii's Older Adults, 1998 Legislative Report prepared by the Executive Office on Aging.

Gov. Msg. No. 256, transmitting copies of The Governor's Blue Ribbon Panel on Living & Dying With Dignity, Final Report, May 1998 prepared by the Executive Office on Aging.

Gov. Msg. No. 257, informing the House that on July 15, 1998, he signed the following bills into law:

House Bill No. 2537 as Act 171, entitled: "RELATING TO INSURANCE";

House Bill No. 2666 as Act 172, entitled: "RELATING TO DOMESTIC VIOLENCE";

House Bill No. 2667 as Act 173, entitled: "RELATING TO CRUELTY TO ANIMALS";

House Bill No. 2967 as Act 174, entitled: "RELATING TO SURFING";

House Bill No. 3528 as Act 175, entitled: "RELATING TO EMPLOYMENT PRACTICES";

House Bill No. 3625 as Act 176, entitled: "RELATING TO GOVERNMENT REORGANIZATION";

Senate Bill No. 2254 as Act 177, entitled: "RELATING TO PROSTITUTION";

Senate Bill No. 2297 as Act 178, entitled: "RELATING TO HEALTH";

Senate Bill No. 2619 as Act 179, entitled: "RELATING TO FAIR TRADE REGULATIONS";

Senate Bill No. 2633 as Act 180, entitled: "RELATING TO REAL PROPERTY APPRAISALS";

Senate Bill No. 2957 as Act 181, entitled: "RELATING TO OUTDOOR ADVERTISING"; and

Senate Bill No. 3088 as Act 182, entitled: "RELATING TO JOB REFERENCE LIABILITY".

Gov. Msg. No. 258, informing the House that on July 16, 1998, he signed the following bill into law:

House Bill No. 2998 as Act 183, entitled: "RELATING TO THE HAWAII MARITIME AUTHORITY".

Gov. Msg. No. 259, informing the House that on July 17, 1998, he signed the following bills into law:

Senate Bill No. 2588 as Act 184, entitled: "RELATING TO VETERINARY MEDICINE";

Senate Bill No. 2602 as Act 185, entitled: "RELATING TO LANDSCAPE ARCHITECTS";

Senate Bill No. 2610 as Act 186, entitled: "RELATING TO PROFESSIONAL LAND SURVEYORS";

Senate Bill No. 2644 as Act 187, entitled:
"RELATING TO BEAUTY CULTURE";

Senate Bill No. 2655 as Act 188, entitled:
"RELATING TO BICYCLE AND MOPED
REGISTRATION";

Senate Bill No. 2689 as Act 189, entitled:
"RELATING TO EMPLOYEES' RETIREMENT
SYSTEM";

Senate Bill No. 2717 as Act 190, entitled:
"RELATING TO FAMILY COURT";

Senate Bill No. 2768 as Act 191, entitled:
"RELATING TO PAYMENTS TO HEALTH CARE
PROVIDERS FOR WORKER'S COMPENSATION
CLAIMS";

Senate Bill No. 2770 as Act 192, entitled:
"RELATING TO MEASUREMENT STANDARDS";

Senate Bill No. 2775 as Act 193, entitled:
"RELATING TO THE KING KAMEHAMEHA
CELEBRATION COMMISSION";

Senate Bill No. 2786 as Act 194, entitled:
"RELATING TO SEX OFFENDER REGISTRATION";

Senate Bill No. 2805 as Act 195, entitled:
"RELATING TO APPEALS FROM THE PUBLIC
UTILITIES COMMISSION";

Senate Bill No. 2820 as Act 196, entitled:
"RELATING TO THE CODE OF FINANCIAL
INSTITUTIONS";

Senate Bill No. 2822 as Act 197, entitled:
"RELATING TO LEMON LAW DISCLOSURE
COMPLIANCE";

Senate Bill No. 2823 as Act 198, entitled:
"RELATING TO TIME SHARE IDENTIFICATION
BADGES";

Senate Bill No. 2829 as Act 199, entitled:
"RELATING TO MOTOR VEHICLE REPAIRS";

Senate Bill No. 2832 as Act 200, entitled:
"RELATING TO INVESTIGATIVE SUBPOENAS";

Senate Bill No. 2833 as Act 201, entitled:
"RELATING TO MOTOR VEHICLE LEASE
DISCLOSURE";

Senate Bill No. 2835 as Act 202, entitled:
"RELATING TO INSURANCE PREMIUM TAXES";

Senate Bill No. 2838 as Act 203, entitled:
"RELATING TO INSURANCE";

Senate Bill No. 2842 as Act 204, entitled:
"RELATING TO THE HAWAII MEDICAL
MALPRACTICE UNDERWRITING PLAN";

Senate Bill No. 2889 as Act 205, entitled:
"RELATING TO THE DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS";

Senate Bill No. 2966 as Act 206, entitled:
"RELATING TO CRIMINAL INJURIES
COMPENSATION";

Senate Bill No. 2981 as Act 207, entitled:
"RELATING TO MOTOR VEHICLE INSURANCE";

Senate Bill No. 3015 as Act 208, entitled:
"RELATING TO THE GENERAL EXCISE TAX
EXEMPTION FOR AIRCRAFT SERVICES AND
MAINTENANCE FACILITIES";

Senate Bill No. 3018 as Act 209, entitled:
"RELATING TO THE UNIFORM COMMERCIAL
CODE";

Senate Bill No. 3024 as Act 210, entitled:
"RELATING TO QUARANTINE";

Senate Bill No. 3025 as Act 211, entitled:
"RELATING TO MILK CONTROL";

Senate Bill No. 3035 as Act 212, entitled:
"RELATING TO THE HOUSING AND COMMUNITY
DEVELOPMENT CORPORATION OF HAWAII";

Senate Bill No. 3043 as Act 213, entitled:
"RELATING TO GOVERNMENT COMPUTER
SYSTEMS WHICH ARE NOT YEAR 2000
COMPLIANT";

Senate Bill No. 3075 as Act 214, entitled:
"RELATING TO GENERAL EXCISE TAX";

Senate Bill No. 3113 as Act 215, entitled:
"RELATING TO REAL PROPERTY";

Senate Bill No. 3114 as Act 216, entitled:
"RELATING TO THE RENTAL HOUSING TRUST
FUND";

Senate Bill No. 3137 as Act 217, entitled:
"RELATING TO MOTOR CARRIERS";

Senate Bill No. 3143 as Act 218, entitled:
"RELATING TO UTILITY TRANSMISSION LINES";

Senate Bill No. 3159 as Act 219, entitled:
"RELATING TO THE TIME SHARE LAW"; and

Senate Bill No. 3248 as Act 220, entitled:
"RELATING TO SPECIAL PURPOSE REVENUE
BONDS".

Gov. Msg. No. 260, informing the House that on July
20, 1998, he signed the following bills into law:

House Bill No. 2366 as Act 221, entitled: "RELATING
TO TRANSPORTATION";

House Bill No. 2533 as Act 222, entitled: "RELATING
TO QUARANTINE";

House Bill No. 2567 as Act 223, entitled: "RELATING
TO THE DUPLICATION OF GOVERNMENT
SERVICES";

House Bill No. 2648 as Act 224, entitled: "RELATING
TO WORKERS' COMPENSATION";

House Bill No. 2701 as Act 225, entitled: "RELATING
TO TELECOMMUNICATION";

House Bill No. 2847 as Act 226, entitled: "RELATING
TO SOLID WASTE MANAGEMENT";

House Bill No. 3033 as Act 227, entitled: "RELATING
TO CORRECTIONS";

House Bill No. 3403 as Act 228, entitled: "RELATING
TO OFFENSES AGAINST PROPERTY";

House Bill No. 3468 as Act 229, entitled: "RELATING TO HAWAII HEALTH SYSTEMS CORPORATION";

Senate Bill No. 2213 as Act 230, entitled: "RELATING TO STATE GOVERNMENT";

Senate Bill No. 2411 as Act 231, entitled: "RELATING TO MOTOR VEHICLE INSURANCE";

Senate Bill No. 2581 as Act 232, entitled: "RELATING TO CEMETERY AND FUNERAL TRUSTS"; and

Senate Bill No. 2582 as Act 233, entitled: "RELATING TO THE VOLUNTARY RESPONSE PROGRAM".

Gov. Msg. No. 261, informing the House that on July 20, 1998, he signed the following bills into law:

Senate Bill No. 632 as Act 234, entitled: "RELATING TO TRAFFIC ENFORCEMENT";

Senate Bill No. 720 as Act 235, entitled: "RELATING TO THE FEES & COSTS FOR THE ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE";

Senate Bill No. 1065 as Act 236, entitled: "RELATING TO ELECTION OFFENSES";

Senate Bill No. 1089 as Act 237, entitled: "RELATING TO ENDANGERED SPECIES";

Senate Bill No. 1273 as Act 238, entitled: "RELATING TO VICTIMS OF SEXUAL ASSAULT";

Senate Bill No. 1309 as Act 239, entitled: "RELATING TO CRIMINAL INJURIES COMPENSATION";

Senate Bill No. 1310 as Act 240, entitled: "RELATING TO CRIMINAL INJURIES COMPENSATION";

Senate Bill No. 1362 as Act 241, entitled: "RELATING TO NEGOTIABLE INSTRUMENTS";

Senate Bill No. 1559 as Act 242, entitled: "RELATING TO ENVIRONMENTAL HEALTH";

Senate Bill No. 1597 as Act 243, entitled: "RELATING TO AQUATIC RESOURCES PENALTIES";

Senate Bill No. 2025 as Act 244, entitled: "RELATING TO PLANT AND NON-DOMESTIC ANIMAL QUARANTINE";

Senate Bill No. 2026 as Act 245, entitled: "RELATING TO SMALL BUSINESS INNOVATION RESEARCH GRANTS";

Senate Bill No. 2037 as Act 246, entitled: "RELATING TO HEALTH INSURANCE";

Senate Bill No. 2065 as Act 247, entitled: "RELATING TO THE GENERAL EXCISE TAX";

Senate Bill No. 2135 as Act 248, entitled: "RELATING TO UNFAIR AND DECEPTIVE TRADE PRACTICES";

Senate Bill No. 2136 as Act 249, entitled: "RELATING TO LIQUOR CONTROL ADJUDICATION BOARD";

Senate Bill No. 2249 as Act 250, entitled: "RELATING TO CORRECTIONS";

Senate Bill No. 2256 as Act 251, entitled: "RELATING TO BARBERS POINT HARBOR";

Senate Bill No. 2326 as Act 252, entitled: "RELATING TO THE HAWAII EMPLOYER'S MUTUAL INSURANCE COMPANY";

Senate Bill No. 2350 as Act 253, entitled: "RELATING TO RECYCLING";

Senate Bill No. 2399 as Act 254, entitled: "RELATING TO ELECTIONS";

Senate Bill No. 2414 as Act 255, entitled: "RELATING TO PAWNBROKERS";

Senate Bill No. 2454 as Act 256, entitled: "RELATING TO VOCATIONAL REHABILITATION";

Senate Bill No. 2460 as Act 257, entitled: "RELATING TO ACQUISITION OF HOSPITALS";

Senate Bill No. 2469 as Act 258, entitled: "RELATING TO THE UNIFORM SECURITIES ACT";

Senate Bill No. 2559 as Act 259, entitled: "RELATING TO EXPLOSIVES"; and

Senate Bill No. 2575 as Act 260, entitled: "RELATING TO CORPORATIONS".

Gov. Msg. No. 262, informing the House that on July 20, 1998, he signed the following bills into law:

House Bill No. 2614 as Act 261, entitled: "RELATING TO POLICE OFFICERS, FIREFIGHTERS, AND BANDSMEN PENSION SYSTEM";

House Bill No. 2671 as Act 262, entitled: "RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC";

House Bill No. 2711 as Act 263, entitled: "RELATING TO THE MANAGEMENT OF FINANCING AGREEMENTS";

House Bill No. 2714 as Act 264, entitled: "RELATING TO UNCOLLECTIBLE ACCOUNTS IN THE JUDICIARY";

House Bill No. 2734 as Act 265, entitled: "RELATING TO SCHOOL BUSES";

House Bill No. 2750 as Act 266, entitled: "RELATING TO STATE BONDS";

House Bill No. 2758 as Act 267, entitled: "RELATING TO PROCUREMENT";

House Bill No. 2762 as Act 268, entitled: "RELATING TO POOLED INSURANCE";

House Bill No. 2776 as Act 269, entitled: "RELATING TO RESTITUTION";

House Bill No. 2779 as Act 270, entitled: "RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT";

House Bill No. 2786 as Act 271, entitled: "RELATING TO MENTAL AND MEDICAL EXAMINATION OF CONVICTED DEFENDANTS";

House Bill No. 2793 as Act 272, entitled: "RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII";

House Bill No. 2800 as Act 273, entitled: "RELATING TO MANAGEMENT OF STATE FUNDS";

House Bill No. 2801 as Act 274, entitled: "RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII"; and

House Bill No. 2823 as Act 275, entitled: "RELATING TO MOTOR VEHICLE INSURANCE".

Gov. Msg. No. 263, informing the House that on July 20, 1998, he signed the following bills into law:

House Bill No. 2837 as Act 276, entitled: "RELATING TO SCHOOL DISCIPLINE";

House Bill No. 2842 as Act 277, entitled: "RELATING TO THE DIRECTOR OF HEALTH";

House Bill No. 2852 as Act 278, entitled: "RELATING TO TELEHEALTH";

House Bill No. 2855 as Act 279, entitled: "RELATING TO NURSE MIDWIVES";

House Bill No. 2866 as Act 280, entitled: "RELATING TO EMPLOYMENT OF PUBLIC WORKS PROJECTS";

House Bill No. 2870 as Act 281, entitled: "RELATING TO WORKERS COMPENSATION";

House Bill No. 2872 as Act 282, entitled: "RELATING TO FIRE PROTECTION INSPECTIONS";

House Bill No. 2888 as Act 283, entitled: "MAKING AN APPROPRIATION FOR COMPENSATION OF CRIMINAL INJURIES";

House Bill No. 2892 as Act 284, entitled: "RELATING TO SPECIAL FACILITY REVENUE BONDS FOR AIRPORTS";

House Bill No. 2909 as Act 285, entitled: "MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT";

House Bill No. 2932 as Act 286, entitled: "RELATING TO NUISANCE ABATEMENT";

House Bill No. 2935 as Act 287, entitled: "RELATING TO SENTENCING";

House Bill No. 2957 as Act 288, entitled: "RELATING TO HUNTING LICENSES";

House Bill No. 2985 as Act 289, entitled: "RELATING TO IRRIGATION AND WATER UTILIZATION PROJECTS";

House Bill No. 2992 as Act 290, entitled: "RELATING TO NOTARIES PUBLIC";

House Bill No. 3010 as Act 291, entitled: "RELATING TO CONCURRENT JURISDICTION";

House Bill No. 3022 as Act 292, entitled: "RELATING TO YOUTH FACILITY";

House Bill No. 3027 as Act 293, entitled: "RELATING TO MEDICAID OVERPAYMENT RECOVERY";

House Bill No. 3028 as Act 294, entitled: "RELATING TO LONG-TERM CARE";

House Bill No. 3059 as Act 295, entitled: "RELATING TO THE STATE POLICY CONCERNING THE UTILIZATION OF VOLUNTEER SERVICE";

House Bill No. 3138 as Act 296, entitled: "RELATING TO THE COUNTIES";

House Bill No. 3247 as Act 297, entitled: "RELATING TO SHORT TERM INVESTMENT OF COUNTY MONIES";

House Bill No. 3248 as Act 298, entitled: "RELATING TO LAPSED WARRANTS";

House Bill No. 3252 as Act 299, entitled: "RELATING TO MOTOR VEHICLE SAFETY RESPONSIBILITY";

House Bill No. 3257 as Act 300, entitled: "RELATING TO CRIMINAL HISTORY CHECKS";

House Bill No. 3281 as Act 301, entitled: "RELATING TO CONDOMINIUMS";

House Bill No. 3289 as Act 302, entitled: "RELATING TO LIABILITY";

House Bill No. 3367 as Act 303, entitled: "RELATING TO HEALTH TOURISM";

House Bill No. 3437 as Act 304, entitled: "RELATING TO FUNDING THE HAWAII HURRICANE FUND";

House Bill No. 3446 as Act 305, entitled: "AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES";

House Bill No. 3457 as Act 306, entitled: "RELATING TO THE WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA"; and

House Bill No. 3553 as Act 307, entitled: "RELATING TO FORFEITURE".

Gov. Msg. No. 264, informing the House that on July 20, 1998, he signed the following bills into law:

House Bill No. 2680 as Act 308, entitled: "RELATING TO STUDENT-CENTERED SCHOOLS"; and

Senate Bill No. 2211 as Act 309, entitled: "RELATING TO EDUCATION".

Gov. Msg. No. 265, informing the House that on July 21, 1998, he signed the following bill into law:

House Bill No. 2362 as Act 310, entitled: "RELATING TO CHARITABLE TRUSTS".

Gov. Msg. No. 266, informing the House that after considerable study and reflection, he decided to permit the following measure to become law on July 21, 1998, without his signature, pursuant to Section 16 of Article III of the State Constitution:

House Bill No. 2552 as Act 311, entitled: "RELATING TO GOVERNMENT".

Gov. Msg. No. 267, transmitting copies of the Department of Transportation's Annual Report for fiscal year ending June 30, 1997.

Gov. Msg. No. 268, requesting nominations for the Committee on Performance Based Budgeting pursuant to Act 230, SLH 1998.

Gov. Msg. No. 269, transmitting copies of the following: Commission on Persons with Disabilities, Annual Report, Fiscal Year 1997-1998.

**DEPARTMENTAL COMMUNICATIONS RECEIVED AFTER ADJOURNMENT
OF THE LEGISLATURE SINE DIE**

Dept. Com. No. 14 from Alan S. Hayashi, Executive Director, Convention Center Authority, acknowledging receipt of a certified copy of House Concurrent Resolution No. 9, SD 1, relating to a major league franchise.

Dept. Com. No. 15 from Lynn Y. Wakatsuki, Commissioner, Division of Financial Institutions, Department of Commerce and Consumer Affairs, transmitting copies of the 1997 Annual Report of the Division of Financial Institutions, Department of Commerce and Consumer Affairs. The Report identifies all institutions and branches which are regulated by the Division of Financial Institutions, including a listing of foreign lenders and escrow depositories. The Report provides a broad overview of the State-chartered institutions which are presently competing in the State's communities.

**MISCELLANEOUS COMMUNICATIONS RECEIVED AFTER ADJOURNMENT
OF THE LEGISLATURE SINE DIE**

Misc. Com. No. 3 from the Honorable Patsy T. Mink, United States Representative, acknowledging receipt of the following concurrent resolutions: H.C.R. Nos. 34, HD 2, SD 1; 83, HD 1, SD 1; 90, HD 1, SD 1; and 149, HD 1.

Misc. Com. No. 4 from Nancy Arcayna, Managing Editor, Hawaii State Bar Association, transmitting copies of the Hawaii Bar Journal for distribution to the Representatives.

Misc. Com. No. 5 from the Honorable Patsy T. Mink, United States Representative, acknowledging receipt of House Concurrent Resolution No. 74, reaffirming state control over insurance legislation.

Misc. Com. No. 6 from the Honorable Patsy T. Mink, United States Representative, acknowledging receipt of House Concurrent Resolution No. 30, HD 1, requesting the Governor to submit a State of Hawaii Application to the United States Secretary of Transportation to authorize foreign air carriers to conduct certain expanded cargo transfer activities at international airports in the State of Hawaii.

Misc. Com. No. 7 from the Honorable Patsy T. Mink, United States Representative, acknowledging receipt of House Concurrent Resolution No. 24, HD 1, SD 1, urging the Social Security Act be amended to increase Hawaii's Federal Medical Assistance Percentage (FMAP).

Misc. Com. No. 8 from the Honorable Patsy T. Mink, United States Representative, acknowledging receipt of House Concurrent Resolution No. 43, concurred by the Senate, regarding the importation of all agricultural products into Hawaii having the designation of the county of origin and certification of inspection based on the U.S.D.A. standards.

Misc. Com. No. 9 from Daniel W. Burkhardt, Special Assistant to the President, Director of Correspondence and Presidential Messages, The White House, acknowledging receipt of House resolutions.

Misc. Com. No. 10 from Luis J. Morales, Commissioner and Executive Director, Philippine Centennial Commission, acknowledging receipt of House Concurrent Resolution No. 226, requesting that the Department of Land and Natural Resources work with the Philippine Centennial Celebration Committee to find an appropriate site for a Rizal bust in Hawaii.

Misc. Com. No. 11 from Dennis DeGaetano, Acting Associate Administrator for Research and Acquisitions, acknowledging receipt and responding to House Concurrent Resolution No. 149, HD 1, strongly urging the Federal Aviation Administration, the U.S. Senate Committee on Commerce Science and Transportation and the U.S. House Committee on Transportation and Infrastructure to promote actions to ensure Hawaii's role as a test site in the Flight 2000 demonstration project.